

The Gazette of India



सत्यमेव जयते

PUBLISHED BY AUTHORITY

No. 19] NEW DELHI, SATURDAY, AUGUST 12, 1950

NOTICE

The undermentioned Gazette of India Extraordinary was published during the week ending the 9th August 1950 :—

S. No.	No. and Date	Issued by	Subject
1	S. R. O. 309, dated the 3rd August 1950.	Ministry of Agriculture	Fixing the maximum prices at which Vegetable Oil Products may be sold with immediate effect.

Copies of the Gazette Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of this Gazette.

PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

MINISTRY OF HOME AFFAIRS

New Delhi, the 3rd August 1950

S.R.O. 340.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government is pleased to extend the Punjab Weights and Measures Act, 1941 (Punjab Act XII of 1941), to the State of Ajmer with the following modifications, namely —

(1) For the word 'Punjab', wherever it occurs the word 'Ajmer' shall be substituted.

(2) For the words 'State Government' the words 'Chief Commissioner' shall be substituted.

(3) Sub-section (2) of section 1 shall be omitted.

[8/9/49-Judl.]

E. C. GAYNOR, Dy. Secy.

New Delhi, the 8th August 1950

S.R.O. 341.—The following draft of certain further amendments to the Registration of Foreigners Rules, 1939, which it is proposed to make in exercise of the powers conferred by Section 3 of the Registration of Foreigners Act, 1939 (XVI of 1939), is published, as required by the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 12th September, 1950.

Any objections or suggestions which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

Draft Amendments.

I. In rule 4 of the said Rules, the words "and, if he is a foreigner," shall be omitted.

II. In form E annexed to the said Rules, the brackets, words and figures "(columnus 1 and 2 to be completed in respect of all passengers; columns 3 to 6 foreigners only)" shall be omitted.

[No. 147/49-F.I.]

FATEH SINGH, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 12th July 1950

S.R.O. 342.—In exercise of the powers conferred by rules 1 and 2 of order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), the Central Government is pleased to authorise the Collector of South Kanara who is acquainted with the facts of the case proposed to be filed by the Union of India against Begum Anjilathu Pathumma in the court of District Munsif of Hosdurg to sign and verify the plaint and other papers in connection therewith and to otherwise act for the Central Government in respect of the said Suit.

[227-BII]

PATAUDI, Dy. Secy.

MINISTRY OF STATES

New Delhi, the 1st August 1950

S.R.O. 343.—In exercise of the powers conferred by section 9 of the Code of Criminal Procedure, 1898 (Act V of 1898), the Central Government is pleased to direct that the following amendment shall be made in the notification of the Government of India in the Ministry of States, No. 72-J, dated the 21st June, 1950, namely:—

In the said notification, after the words "sitting at Rewa" the words "or Sidhi as may be necessary" shall be added.

[No. 85-J.]

S.R.O. 344.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government is pleased to extend the West Bengal Land Development and Planning Act, 1948 (West Bengal Act XXI of 1948) to the State of Tripura subject to the following modifications, namely:—

(1) For the words "State Government" or "Government" wherever they occur, the words "Chief Commissioner of Tripura" shall be substituted.

(2) Except in the short title, for the words "West Bengal" wherever they occur, the word "Tripura" shall be substituted.

(3) In section 1—

(i) for sub-section (2) the following sub-section shall be substituted, namely —

"(2) It extends to the whole of the State of Tripura"; and

(ii) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) It shall come into force at once"

(4) In section 2—

(i) in clause (a) the word "Collector" shall be omitted,

(ii) after clause (a), the following clause shall be inserted, namely:—

"(aa) 'Collector' means the Collector of a Division in Tripura and includes any officer specially appointed by the Chief Commissioner to perform the functions of a Collector under this Act;" and

(iii) after clause (c) the following clause shall be inserted, namely:—

"(cc) 'official Gazette' means the Tripura Gazette"

(5) In the proviso to sub-section (2) of section 4, the words "or other chief revenue officer of the district" shall be omitted.

(6) In sub-section (2) of section 6, the words "district or other" shall be omitted; and

(7) In clause (a) of section 8, for the word "Crown" the words "Central Government" shall be substituted; and

(8) Section 15 shall be omitted.

[No 86-J.]

A. N. SACHDEV, Under Secy.

MINISTRY OF FINANCE

Department of Economic Affairs

New Delhi, the 7th August 1950

S.R.O. 345.—In exercise of the powers conferred by section 6 of the Indian Coinage Act, 1906, (III of 1906) and in partial modification of the notifications of the Government of India in the late Finance Department Nos. (1) F.2(13)-F.1/47 (1), dated the 24th May, 1947 (2) D.5749-F.1/46, dated the 23rd May, 1946 and (3) F.2(127) (i to iv)-F/41, dated the 24th January, 1942, the Central Government is pleased to direct that:—

(a) The Rupee, Half-Rupee and Quarter-Rupee coins, which bear the date 1950 or any subsequent year, shall have on the obverse face a replica of the Lion Capital of the Ashoka Pillar, surrounded by the words GOVERNMENT OF INDIA in English and that the reverse face of these coins shall bear an Ears of Corn design, with the year of issue and the denomination of the coin in English and in Hindi (Devnagri script),

(b) The Two Anna, One Anna and Half Anna coins, which bear the date 1950 or any subsequent year, shall have on the obverse face a replica of the

Lion Capital of the Ashoka Pillar surrounded by the words GOVERNMENT OF INDIA in English, and that the reverse face of these coins shall bear a replica of the BULL on the base of the Lion Capital of the Ashoka Pillar, with the year of issue and the denomination of the coin in English and in Hindi (Devnagri script); and

(c) The Pice or Quarter Anna coins which bear the date 1950 or any subsequent year, shall be circular in shape, with a diameter of 0.840 inch, and that the obverse face of this coin shall have a replica of the Lion Capital of the Ashoka Pillar, surrounded by the words GOVERNMENT OF INDIA in English; and that the reverse face of this coin shall bear a replica of the HORSE on the base of the Lion Capital of the Ashoka Pillar, with the year of issue and the denomination of the coin in English and in Hindi (Devnagri script).

[F.1(14)-F.1/50.]

S.R.O. 346.—In exercise of the powers conferred by section 7 of the Indian Coinage Act, 1906 (III of 1906), and in partial modification of the notification of the Government of India in the late Finance Department No. F.2(48) (1)-F/42, dated the 23rd January 1943, the Central Government is pleased to make the following rule:—

The standard weight of the Pice or Quarter Anna coins which bear the date 1950 or any subsequent year shall be 60 grains Troy:

Provided that in the making of the said coin a remedy not exceeding one-fortieth of the standard weight shall be allowed.

[F.1(14)-F.1/50.]

S. K. SEN, Dy. Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

CENTRAL EXCISES

New Delhi, the 12th August 1950

S.R.O. 347.—In exercise of the powers conferred by section 97 of the Central Excises and Salt Act, 1944 (1 of 1944), the Central Government is pleased to direct that the following further amendments shall be made in the Central Excise Rules, 1944, namely:—

In the said Rules—

- (i) In the proviso to rule 49, the following shall be omitted, namely —
“and shall also be liable to a penalty which may extend to five times the duty chargeable on such goods found deficient”
- (ii) Rule 142 shall be omitted.
- (iii) After rule 223, the following rule shall be inserted, namely.—

“223A. *Account of stock of goods in a factory or warehouse to be taken and balance to be struck*—As often as the Collector may deem it necessary or proper, and at least once in every year, the stock of excisable goods remaining in a factory warehouse or store-room licensed or approved for the storage of such goods shall be weighed, measured, counted or otherwise ascertained in the presence of the proper Officer; and if the quantity so ascertained is less than the quantity which ought to be found

in such premises, (after taking into account receipts and deliveries, and making such allowance for waste by evaporation, or other natural causes, as the proper officer may consider reasonable, and as may be in accordance with any instructions issued by the Central Board of Revenue) the owner of such goods, or if the premises be a public bonded warehouse, the keeper thereof, shall, unless the deficiency be accounted for to the satisfaction of the proper officer, be liable to a penalty which may extend to five times the duty chargeable on such goods as are found deficient".

[No. 21]

S.R.O. 348.—In exercise of the powers conferred by sections 6 and 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government is pleased to direct that the following further amendment shall be made in the Central Excise Rules, 1944, namely:—

In the Table set out in sub-rule (2) of rule 176 of the said Rules, after item 3, the following shall be inserted, namely:—

3A. Khandasari Sugar.	Rs.
(a) Manufacturers who manufacture less than 100 maunds per annum	5/-
(b) Manufacturers who manufacture not less than 100 maunds but less than 1000 maunds per annum	10/-
(c) Manufacturers who manufacture 1000 maunds or more per annum	20/-
3B. Tea manufactured in factories not operated by power	
(a) Manufacturers who manufacture 200 lbs. or less per annum	1/-
(b) Manufacturers who manufacture more than 200 lbs. but less than 1000 lbs. per annum.	5/-
(c) Manufacturers who manufacture 1000 lbs. or more per annum.	10/-

[No. 22]

D. P. ANAND, Dy. Secy.

HEADQUARTERS ESTABLISHMENTS

New Delhi, the 12th August 1950

S.R.O. 349.—In pursuance of clause (b) of sub-rule (ii) of rule 2 of the Appellate Tribunal Rules, 1946, the Central Government is pleased to appoint Mr. G. L. Pophale, as Authorised Representative to appear, plead and act for an Income tax Authority who is a party to any proceeding before the Income-tax Appellate Tribunal.

[No. 35]

PYARE LAL, Dy. Secy.

CUSTOMS

New Delhi, the 12th August 1950

S.R.O. 350.—In exercise of the powers conferred by section 6 of the Sea Customs Act 1878, (VIII of 1878), the Central Government is pleased to appoint all the Land Customs Officers appointed to be such under sub-section (1) of section 3 of the Land Customs Act, 1924 (XIX of 1924), to be Officers of Customs for their respective jurisdictions and to exercise the powers conferred and to perform the duties imposed on such officers by the first named Act.

[No. 71]

K. R. P. ARYANGAR, Jt Secy.

INCOME-TAX

New Delhi, the 12th August 1950

S.R.O. 351.—In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to direct that the following further amendments shall be made in the Merged States (Taxation Concessions) Order, 1949, namely:—

In paragraph 13 of the said Order—

(1) In clause (ii), the following words shall be omitted, namely:—

“for so long as such allowance is received by her in the merged State and is not brought into or received in any part of taxable territories”.

(2) To clause (ii), the following proviso shall be added, namely:—

“Provided that in the case of the widow or the mother who, in any of the three years immediately preceding the 1st day of April, 1949, was chargeable to tax as resident in the taxable territories (other than the merged State), the said sum shall be exempt *only if* it is received by her in the merged State and is not brought into or received in any part of the taxable territories other than the merged State”.

[No. 91]

P. C. PADHI, Additional Secy.

CENTRAL BOARD OF REVENUE

CUSTOMS

New Delhi, the 12th August 1950

S.R.O. 352—In exercise of the powers conferred by section 9 of the Sea Customs Act, 1878 (VIII of 1878), the Central Board of Revenue makes the following rules prescribing and limiting the powers and duties of the Land Customs Officers who have been appointed officers of Customs by the Ministry of Finance (Revenue Division) Notification No. 71 dated the 12th August 1950, namely:—

Rules.

(1) The Officers of Land Customs who have been appointed Officers of Customs by the said notification are required for the purpose of preventing smuggling and to enforce prohibitions or restrictions issued under section 19 of the Sea Customs Act, on the import and export by land of goods and are authorised to exercise within their respective jurisdictions all the powers conferred by Chapter XVII of the said Act on Officers of Customs duly employed for that purpose.

(2) The following Officers of Land Customs who have been appointed Officers of Customs by the aforesaid notification shall be Customs—Collectors for their respective jurisdictions, namely:—

All the Collectors of Land Customs and Deputy Collectors and Assistant Collectors of Central Excise.

[No. 72]

D. P. ANAND, Secy.

INCOME-TAX

New Delhi, the 12th August 1950

S.R.O. 353.—The following draft of certain further amendments to the Indian Income-tax Rules, 1922, which the Central Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 59 of the Indian Income-tax Act, 1922 (XI of 1922), is published, as required by sub-section (4) of the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 15th September 1950. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the said Board.

Draft Amendments

In rule 36 A of the said Rules—

1. In the form of Application for Refund of Income-tax/Super-tax set out in sub-rule (a)—

- (i) in the declaration, for the words, brackets and figures “a British subject (see note 2)/subject of.....State, being a State in India or Burma (see note 3)” the words, brackets and figures “a citizen of India/British subject (see notes 2 and 8)” shall be substituted;
- (ii) for Notes 1 and 3, the following Notes shall respectively be substituted, namely:

“NOTE 1.—The above declaration shall be sworn (a) before a Justice of Peace, a Notary Public or Commissioner of Oaths, if the applicant for refund resides in any part of the Commonwealth outside India (b) before a British Consul if he resides elsewhere.” and

“NOTE 3.—If the applicant is neither a citizen of India nor a British subject he should delete the first sentence in the above verification”.

2. In the form of Application for Refund of Income-tax/Super-tax set out in sub-rule (b)—

- (i) in the declaration, for the words, brackets and figures “a British subject (see Note 1)/subject of.....State, being a State in India or Burma (see note 2)” the words, brackets and figures “a citizen of India/British subject (see notes 1 and 2)” shall be substituted;

- (ii) for Note 2, the following Note shall be substituted, namely:—

“NOTE 2.—If the applicant is neither a citizen of India nor a British subject he should delete the first sentence in the above verification.”

[No 89.]

S.R.O. 354.—The following draft of certain further amendments to the Indian Income Tax Rules, 1922, which the Central Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of Section 59 of the Indian Income-tax Act, 1922 (XI of 1922), is published for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 11th September 1950. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the said Board.

Draft Amendments.

In the said Rules—

- (i) In Rule 16 for the words and figures 'Rs. 1,600' the words and figures 'Rs. 3,000' shall be substituted.
- (ii) In Rule 17 for the words and figures 'Rs. 1,600' wherever they occur in the certificate at the end of the form the words and figures 'Rs. 3,000' shall be substituted.

[No. 90.]

PIARE LAL, Secy.

MINISTRY OF INDUSTRY AND SUPPLY

Bombay, dated the 18th July 1950

S.R.O. 355.—In exercise of the powers conferred on me by clause 5(i) of the Cotton Textiles (Export Control) Order, 1949, I hereby direct that the following further amendment shall be made in my Notification No. 27/1-T.2/48, dated the 17th September 1949, namely—

- (i) In the first paragraph for the words,
"sold or agreed to be sold for export or exported by any person"
the following shall be substituted, namely—
"and held against a valid export licence issued prior to 23rd June 1950"
- (ii) In the second paragraph the words—
"sold or agreed to be sold for export or"
shall be deleted.

[No. 27/1-T.2/48.]

T. P. BARAT, Textile Commr.

Corrigendum

New Delhi, the 5th August 1950

S.R.O. 356.—In the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1) 1(146), dated the 26th April, 1950, published in Part I-Section 1 of the *Gazette of India* dated the 6th May, 1950, under the heading II-Addendum—

(i) For	Read
Amaluer	Amalner
Bunga	Bun. a
Phanpur	Bhaupur
Charbaagh (Lucknow)	Charbagh (Lucknow)
Chinghighar	Chingihar
Hindunalkota	Hindunalkoto
Kiangson	Khangson
Pharanda	Pharenda
Sodepora	Sodepore.

- (ii) For the amount "39-0-0" appearing against 'Jaunpur' read "39-8-0".

M. K. POWVALA,
Iron and Steel Controller.

[No. I(1)-1(146).]

K. P. SIRCAR, Under Secy.

MINISTRY OF AGRICULTURE*New Delhi, the 7th August 1950*

S.R.O. 357.—Under section 4 (i) of the Indian Cotton Cess Act 1923 (XIV of 1923) the Central Government are pleased to appoint Dr. R. J. Kalamkar, B.Sc., B.Ag., Ph. D. (London), Director of Agriculture, Madhya Pradesh, to be a member of the Indian Central Cotton Committee, Bombay to represent the Agriculture Department of Madhya Pradesh *vice* Shri P. D. Nair, resigned.

[No F.3-2/50-Com]

A. N. BERY, Under Secy.

New Delhi, the 12th August 1950

S.R.O. 358.—In exercise of the powers conferred by sub-clause (1) of clause 4 of the Vegetable Oil Products Control Order, 1947 as continued in force by sub-section (2) of section 17 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946) the Vegetable Oil Products Controller for India is pleased to direct that Ministry of Agriculture Notification No. 5-VP(1)/50 dated the 29th July, 1950, amending clause (1) of Ministry of Food Notification No. 5-VP(1)/47 dated the 31st January, 1947, shall be applicable to the stock or sale of vegetable oil products only with effect from 1st November, 1950

[No 5-VP(1)/50]

N. T. MONE,

Vegetable Oil Products Controller for India.

MINISTRY OF HEALTH*New Delhi, the 5th August 1950*

S.R.O. 359.—In exercise of the power conferred by clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1933 (XXVII of 1933), the Central Government is pleased to nominate Dr. J. C. David, M.B.B.S., Ph.D. (Edin), Surgeon General with the Government of Madras, to be a member of the Medical Council of India from Madras with effect from the 5th August, 1950, *vice* Major-General S. L. Bhatia, resigned.

[No F. 5-6/50-MI.]

J. N. SAKSENA, Under Secy.

MINISTRY OF EDUCATION

ARCHAEOLOG

New Delhi, the 3rd August 1950

S.R.O. 360.—In exercise of the powers conferred by sub-section (1) section 20 of the Ancient Monuments Preservation Act, 1904 (VII of 1904) the Central Government is pleased to confirm its notification in the Ministry of Education No. D. 3833/49 A 2 dated the 26th September, 1949, declaring the mound described therein (old Matichi Gadh) to be a protected area with the meaning of the said Act.

[No. D. 3833/49 A 2.]

New Delhi, the 5th August 1950

S.R.O. 361.—The following draft of an amendment to the Rules for admission of visitors to Shanwai Wada, Poona, published with the notification of the Government of India in the late Department of Education, Health and Lands, No. F.5-19/38-F dated the 23rd March 1939, which it is proposed to make in exercise of the powers conferred by section 15 of the Ancient Monuments Preservation Act, 1904 (VII of 1904), is published, as required by sub-section (1) of the said section, for the information of all persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration on or after the 15th September 1950.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

Draft Amendment

For rule 2 of the said Rules the following rule shall be substituted, namely:—

‘The Wada shall be open to the public daily from 8 A.M. to 12 Noon and From 2 P.M. to 7 P.M.’

[D.3326/50 A.2]

RAM LAL, Under Secy.

MINISTRY OF FOOD

New Delhi, the 7th August 1950

S.R.O. 362.—In exercise of the powers conferred by section 4 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946) the Central Government is pleased to direct that the powers conferred on it by section 3 of the said Act to provide for the matters specified in clauses (f), (h) and (j) of sub-section (2) thereof, shall, in relation to foodstuffs, be exercisable also by all District Magistrates and Subdivisional Magistrates in the State of Orissa within their respective jurisdictions subject to such directions, general or special, as the Government of Orissa may issue in this behalf.

[CG.603(38)-VI]

K. R. DAMLE, Jt. Secy.

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 7th August 1950

S.R.O. 363.—In pursuance of section 32 of the Indian Railways Act, 1890 (IX of 1890), the Central Government is pleased to direct that the following further amendments shall be made in the notification of the Government of India in the Ministry of Railways (Railway Board) No. 2146-TC dated the 20th February 1950, namely:—

In the said notification—

1 For item (1) (b) (i), the following item shall be substituted, namely:—

“(i) *Parcels (except those not exceeding 2½ seers in weight or one cubic foot by measurement) and parcels of betel or van leaves, butter, cream and khoa (dried milk).*

Eight pies per mound at each end.”

2. For item (2) (b), the following item shall be substituted, namely:—

“(b) Coal coke and patent fuel, in wagon loads.

Five annas per ton

Coal, coke and patent fuel, in small lots.

Three pies per maund.

3. For item (3), the following item shall be substituted, namely:—

“3. Short Distance charge.

Goods Traffic (excluding Coal, Coke and patent fuel and livestock).

Six pies per maund.”

[No. 2146 TC.]

New Delhi, the 8th August 1950

S.R.O. 364.—In exercise of the powers conferred by sub section (1) of Section 35 of the Indian Ports Act, 1908 (XV of 1908), the Central Government is pleased to direct that the following further amendments shall be made in the Rules published with the Notification of the Government of India in the Department of Commerce No. 222P&L, 33(VI) dated the 30th September, 1933, namely:—

In the said rules —

(i) Sub-rule (ii) of rule 2 and the note thereunder shall be omitted.

(ii) In rule 3 after Clause V, the following clause shall be inserted, namely —

(VI) (a) Vessels which are allotted a berth in the Roadstead within Port limits—Rs. 50 per vessel

NOTE —No export or import of cargo is permitted while so anchored in the Roadstead.

(b) Vessels requisitioning the services of a Pilot while so anchored in the roads an additional fee of Rs. 50 per vessel will be levied.

(c) Vessels anchoring in the Roadstead at nights or while awaiting a berth within the harbour shall pay no fees unless requisitioning a Pilot to take them to the anchorage.”

[No. 2101-TC.]

S. S. RAMASUBBAN, Secy.

MINISTRY OF REHABILITATION

New Delhi, the 29th July 1950

S.R.O. 365.—In exercise of the powers conferred by section 4 of the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949), the Central Government is pleased to direct that the following further amendment shall be made in the Permit System Rules, 1949, namely —

To rule 29 of the said Rules, the following shall be added, namely:—

“No person whose permit has been so cancelled shall stay in India for a period exceeding fifteen days from the date of cancellation of the permit”.

[III, PMT(X-4)/50-N-10]

V. D. DANTYAGI, Joint Secy

New Delhi, the 3rd August 1950

S.R.O. 366.—In exercise of the powers conferred by Section 25 of the Administration of Evacuee Property Act, 1950 (XXI of 1950), the Central Government is pleased to nominate each of the District Judges specified in column 1 of the subjoined table to hear appeals under sub-section (1) of the said section within the local limits of his jurisdiction in the State of Bhopal specified in the corresponding entry in column 2 of the said table:—

THE TABLE

<i>District Judge.</i>	<i>Local limits of jurisdiction.</i>
1. Mr. Mohd. Afzal Quarashi, District Judge, Eastern District, Bhopal	Within his own district and the town of Bhopal.
2. Mr. Syed Abdul Karim, District Judge, Western District, Bhopal	Within his district.

[No. 14(59) Cus/50]

T. D. SACHDEVA, Under Secy

MINISTRY OF TRANSPORT

New Delhi, the 7th August 1950

S.R.O. 367.—In exercise of the powers conferred by Section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is pleased to direct that the following further amendment shall be made in the Motor Spirit Rationing Order, 1941, namely:—

In the Third Schedule to the said Order, the following entry shall be added at the end, namely:—

“(xvii) The Andaman and Nicobar Islands.”

[No. 34-PR(1)/50.]

PORTS

New Delhi, the 8th August 1950

S.R.O. 368.—In exercise of the powers conferred by sections 4 and 6 of the Madras Outports Landing and Shipping Fees Act, 1885 (Madras Act III of 1885), the Central Government is pleased to direct that with effect from the 13th November 1950, the following amendment shall be made in the notification of the Government of India in the late War Transport Department No. 11-P(19)/46, dated the 9th May 1946, namely:—

For sub-rule (3) of rule 6 of the “Landing and Shipping Rules” appended to the said notification, the following sub-rule shall be substituted, namely:—

“(3) Applications for refund of Landing and Shipping Fees and wharfage paid shall not be considered unless submitted in writing to the Port Authority, within six calendar months from the date of first payment. No refund shall be made if the amount refundable is less than one rupee.”

[No. 11-P(87)/50-I.]

S.R.O. 369.—In exercise of the powers conferred by sections 33, 46 and 47 of the Indian Ports Act, 1908 (XV of 1908), the Central Government is pleased to direct that with effect from the 13th November, 1950, the following note shall be added at the end of each of the notifications specified below, namely:—

(i) Government of India, late Department of Communications, notification No. 11-P(10)/41, dated 21st April 1941.

- (ii) Government of India, late War Transport Department notification No. 11-P(39)/42, dated 2nd November 1942.

Note.—Applications for refund of Port dues paid shall not be considered unless submitted in writing to the Port Authority within six calendar months from the date of first payment. No refund shall be made if the amount refundable is less than one rupee."

[No. 11-P(87)/50-III.]

S.R.O. 370.—In exercise of the powers conferred by section 35 of the Indian Ports Act, 1908 (XV of 1908), the Central Government is pleased to direct that with effect from the 13th November 1950, the following Note shall be added at the end of each of the notifications specified below, namely:—

- (i) Government of Madras, Finance (Marine) Department Notification No. 26, dated 1st March 1930
- (ii) Government of India, Ministry of Transport notification No. 11-P(125)/47, dated 16th December 1947
- (iii) Government of India, late Department of Communications notification No. 11-P(75)/39, dated 12th November 1940
- (iv) Government of India, late War Transport Department notification No. 15-IWT(45)/45, dated 7/8th January 1946.
- (iv) Government of India, late War Transport Department notification No. 19-P(160)/42-II, dated 24th March 1944.
- (vi) Government of India, late War Transport Department notification No. 11-P(95)/42, dated 5th March 1943.
- (vii) Government of India, late War Transport Department notification No. 6-IWT(16)/43, dated 2nd February 1944.
- (viii) Government of India, late War Transport Department notification No. 11-P(54)/41, dated 10th December 1942
- (ix) Government of India, Ministry of Transport notification No. 11-P(160)/48, dated 15th November 1948

Note.—Applications for refund of fees/charges paid shall not be considered unless submitted in writing to the Port Authority within six calendar months from the date of first payment. No refund shall be made if the amount refundable is less than one rupee "

[No. 11-P(87)/50-III.]

S.R.O. 371.—The following draft of a certain amendment to the notifications of the Government of India specified below, which it is proposed to make in exercise of the powers conferred by sub-section (1) of section 6 of the Indian Ports Act 1908 (XV of 1908), is published, as required by sub-section (2) of the said section, for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 13th September, 1950.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

- (i) Government of India, late Department of Communications, notification No. 11 P(53)/41, dated 29th January 1942.
- (ii) Government of Madras Finance (Marine) Department notification No. 17, dated 20th February 1934, and
- (iii) Government of India, late War Transport Department notification No. 19-P(160)/42, dated 8th April 1943.

Draft Amendment

In each of the said notifications, the following note shall be added at the end, namely:—

“Note—Applications for refund of charges/tees paid shall not be considered unless submitted in writing to the Port Authority within six calendar months from the date of first payment. No refund shall be made if the amount refundable is less than one rupee.”

[No. 11-P(87)/50-IV.]

T. S. PARASURAMAN, Dy. Secy.

MINISTRY OF COMMUNICATIONS

New Delhi, the 3rd August 1950

S.R.O. 372.—In exercise of the powers conferred by rule 75 of the Indian Aircraft Rules 1937, the Central Government is pleased to appoint the following to act as assessors in the investigation which has been directed to be held of the accident which occurred to the aircraft of the Indian National Airways VT-ATS near Pathankot on the 17th July 1950, namely:—

Shri K. M. Raha, Deputy Director General of Civil Aviation

Dr. P. Nilakantan, Deputy Director, Civil Aviation Directorate.

[No. 14-A/9-50.]

POSTS AND TELEGRAPHS

New Delhi, the 7th August 1950

S.R.O. 373.—In exercise of the powers conferred by section 7 of the Indian Telegraph Act, 1885 (XIII of 1885), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Telegraph Rules, 1932, namely:—

In the said Rules—

I. In rule 8, after the word “Ceylon” the word “Nepal” shall be inserted.

II. To rule 78 the following shall be added, namely —

“VI.—For delivery in Nepal.

Class	For any number of words not exceeding 8 including the address			For each additional word after the first 8 words.		
	Rs.	As.	Ps.	Rs.	As.	Ps.
3 Express	1	0	0	0	2	0

III. In rule 177, after the word “Ceylon” the word “Nepal” shall be inserted.

IV. To rule 462, the following proviso shall be added, namely —

“Provided that in respect of a public call office connected to an exchange by wireless double the rates shown above shall be charged.”

[No. R-2-16/50.]

P. K. ROY, Dy. Secy

MINISTRY OF WORKS, MINES AND POWER

Central Electricity Board.

New Delhi, the 8th August 1950

DRAFT NOTIFICATION

S.R.O. 374.—The following draft of a further amendment to the Indian Electricity Rules, 1937 which it is proposed to make in exercise of the powers

conferred by section 37 of the Indian Electricity Act, 1910 (IX of 1910), is published, as required by section 38 of the said Act, for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 1st November 1950.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Electricity Board.

Draft Amendment

In the said Rules, for sub-rule (2) of rule 1, the following sub-rule shall be substituted, namely:—

“(2) They extend to the whole of India except Part B States.”

[No. EL-II/12(10)]

S.R.O. 375.—The following draft of a further amendment to the Indian Boiler Regulations, 1924, which it is proposed to make in exercise of the powers conferred by section 28 of the Indian Boilers Act, 1923 (V of 1923), is published, as required by section 31 of the said Act, for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 1st November 1950.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Boilers Board.

Draft Amendment

In the said regulations, for clause (c) of regulation 1, the following clause shall be substituted, namely:—

“(c) They extend to the whole of India except Part B States.”

[No. EL-II/12(10)]

N. P. DUBE,
Secy., Central Boilers Board.

MINISTRY OF LABOUR

New Delhi, the 2nd August 1950

S.R.O. 376.—In pursuance of section 10 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government is pleased to direct that the following further amendment shall be made in the notification of the Government of India in the Ministry of Labour, No. SS 21(4) dated the 28th December 1948, constituting the Medical Benefit Council under the said Act, namely:—

In the said notification, for item (10) the following item shall be substituted, namely:—

“(10) Capt. A. P. Bajpayee, M.B.B.S., P.H.S., Director of Medical and Health Services, Uttar Pradesh.”

[No. SS 121(81).]

S.R.O. 377.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the Industrial Tribunal, Calcutta in the industrial dispute between banking companies and their employees in the State of West Bengal.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

6 Esplanade East, Calcutta-1.

Before F. Jeejeebhoy, Barrister-at-Law, Chairman.

AWARD

BANK DISPUTES AT WEST BENGAL

By Notification No. LR-2(273), dated the 21st February 1950, the Central Government referred to this Tribunal for adjudication the industrial disputes that after 13th June 1949 had arisen or were apprehended between the employees of the Banks specified in Schedule I of the said Notification and their Employers, in respect of matters specified in Schedule II thereof.

Notices were issued to the Banks—

- (1) directing them to give due publicity to the Notification among their employees;
- (2) directing the employees to file statements of claim in the office of the Tribunal by 15th March 1950 and to furnish copies thereof to the employers on the same day;
- (3) directing the Banks to file their written statements within ten days thereof, with copy to the employees; and
- (4) directing the Banks to report for record to this Tribunal as to the manner in which due intimation had been given to the employees.

Notices were also issued to the Bank employees' Unions to file their statements of claim.

A preliminary sitting to decide the procedure and for fixing dates of hearing of the cases was held on 27th March 1950 in respect of cases filed against the Banks which had their offices in Calcutta; and in respect of the other Banks another sitting for the same purpose was held on 30th March 1950.

Statements of claims were received from the employees of different Banks—from Head Offices as well as branch offices—and also from the Unions. Written statements were duly filed by the Banks concerned.

The pleadings having been completed, it was ordered by consent that the hearing of all West Bengal cases (and a few from outside) should commence in Calcutta from 6th June 1950; and as to the cases in the other States, it was decided that the hearings would be held at or near the places from which the complaints emanated. Parties were informed that the date and place of hearing outside Calcutta would be intimated in due course.

No claims were received from any employees of the following Banks named in Notification.

GROUP A (ii) Exchange Banks—1, 2, 4, 6, 8, 9 & 13.

GROUP C Other Scheduled Banks—1, 2, 6, 7, 8, 9, 13, 14, 16, 17, 21, 22, 24, 27, 28, 31, 32, 33, 35, 36, 37 & 38.

GROUP D 1, 2, 4, 5, 6, 7, 8, 9, 10

GROUP A. (List of Non scheduled Banks) Banks working normally—
1, 2, 3, 4, 5 to 30, 32 to 40.

GROUP B. Banks which are working under scheme of arrangement or
are in liquidation— 1 to 40 and 42 to 52.

This interim Award covers the cases of complaints of employees in West Bengal and a few cases outside West Bengal heard here in Calcutta for better convenience of the parties.

This award will deal with the cases according to the Banks.

Reference No. 1 of 1950

IMPERIAL BANK OF INDIA

Shri S. K. Mullick for the Bank.

Shri B. K. Chowdhury, Counsel, with Shri J. Ghosh, Secretary of the Imperial Bank Indian Staff Association for the employees.

The Imperial Bank of India Indian Staff Association (Bengal Circle) represented the complaints of 20 members of the staff, and I shall deal with their claims in the order stated below:]

1.	A. N. Bhowmick	.	.	.	.	.	Bhagalpur
2.	Bishan Narain	.	.	.	.	.	Etawah
3.	Darbheshwar Lall	.	.	.	.	.	Muzaffarpur
4.	Balkrishna Mehta	.	.	.	.	.	—do—
5.	G. Chowdhury	.	.	.	.	.	—do—
6.	S. P. Nandi	.	.	.	.	.	—do—
7.	R. Prasad	.	.	.	.	.	—do—
8.	Sudhanshu Mitra						Local Head Officer, Calcutta
9.	J. M. Roy	.	.	.	.	.	—do—
10.	B. B. Mitra	.	.	.	.	.	—do—
11.	Bholanath	.	.	.	.	.	Banaras
12.	S. P. Nigam	.	.	.	.	.	Banaras
13.	J. N. Dutta	.	.	.	.	.	Purnea
14.	R. C. Ghose	.	.	.	.	.	Local Head Officer, Calcutta
15.	P. Chatterjee	.	.	.	.	.	Burrabazar Officer, Calcutta
16.	H. Chowdhury	.	.	.	.	.	Jalpaiguri
17.	Sardari Lal	.	.	.	.	.	Ferozporo
18.	J. L. Das	.	.	.	.	.	Darbhanga
19.	Jogeshwar Prasad	.	.	.	.	.	Mazaffarpur
20.	Thakur Prasad Singh	.	.	.	.	.	Mazaffarpur

Some of the cases which emanated from outside West Bengal were also heard at Calcutta at the request of parties.

(1) *A. N. Bhowmick* His case is that he was first employed on probation in November 1948 in the Government Receipt Section at Bhagalpur, he was in service for nine months when his services were terminated in July 1949. When I asked him why his services were terminated, he was unable to give an answer. He later said that he did not know the reason for the termination of his services, but was informed by the Agent of the Bhagalpore Branch that it was due to his attending the meetings of the Union. It appears, however, from the documents which have been filed that the Bank had been indulgent towards Bhowmick, and in fact extended his probationary period by another three months in

order to give him an opportunity to make himself suitable for confirmation. He became a member of the Union in the 8th month of his service, but almost from the first month of his employment the monthly reports of his progress were not as satisfactory as they should have been. He started well but was slow; he was asked "to pick up speed and the result is being watched with interest". Unfortunately he continued to be below the mark. The Bhagalpore office reported on 31st May 1949 that Bhowmick's knowledge of English was poor and that he was a slow worker, and it was suggested that his work may be watched and a further report submitted to the Head Office as to the progress made by him in a month's time. As he did not improve, the Bank terminated his services without confirmation. I had occasion to observe Bhowmick when he gave evidence, and I do not think that any interference is indicated.

(2) The six employees, viz., Bishan Naram, Darbeshwar Lall, Balkrishna Mehta & Chowdhury, S. P. Nandi and R. Prasad alleged that they had been victimised and wrongfully suspended. After hearing the parties I passed the following orders on 23rd and 28th June 1950:

Diary Order of 23rd June 1950

"Five persons, viz., Darbeshwar Lall, Balkrishna Mehta, G. Chowdhury, S. P. Nandi and R. Prasad are Cashiers of the Muzaffarpur Branch of the Imperial Bank of India. The Imperial Bank at Muzaffarpur acting on behalf of the Reserve Bank used to collect non-issuable notes (soiled and old notes to be stopped from circulation) and it was the practice to forward them to the Reserve Bank at Calcutta and Kanpur.

Ex 27 is the agreement between the Head Cashier and the Bank whereby the Head Cashier accepted responsibility for the intromissions of any persons of the Cash Department appointed in terms of that agreement. The Cashiers in their turn used to give letters in Form Ex 29 to the Agent of the Imperial Bank of India depositing cash security in the joint names of the Head Cashier and themselves to be held by the Bank as security for good conduct and integrity and for the careful and faithful fulfilment of duties while in the Bank's employ.

It appears that the above six persons, with the exception of Shri B. K. Mehta, are said to have been implicated in acts of negligence or fraud in connection with the non-issuable notes sent to Calcutta and Kanpur, resulting in a lesser number of notes being received by the Reserve Bank than the amount noted to have been sent from the Muzaffarpur Branch.

In the case of Shri B. K. Mehta, the allegation concerns shortage in the currency chest of the non-issuable notes in Muzaffarpur itself.

These five cashiers were suspended on the 22nd September 1949, and the Bank has been enquiring into the shortages. The enquiry was kept in abeyance, because it is said, upon the matter being referred to this Tribunal it was contended by the employees that the suspension amounted to a violation of Section 33 of the Act. That contention is not valid because there has been no alteration of the conditions of service of these five employees who have been getting their usual pay and allowances as if there had not been any suspension. This type of suspension is not a penalty but a suspension pending inquiry. Where, during the pendency of a dispute before the Tribunal, an employee commits a wrong and a *prima facie* case exists against him, the employer may quite properly and correctly adopt the procedure (as has been done here) of suspending the employee pending enquiry and pending the possibility of an application to the Tribunal under Section 33, it is obvious that an application for permission under Section 33 must be preceded by the enquiry to which the employee is entitled as a matter of natural justice. In this case the enquiry into the charges has been delayed owing to a misconception of rights and duties under Section 33, but

there should not be any further delay, as it is improper that employees should have hanging over their heads for months allegations as to which charges have not yet been framed. Undue delay in holding enquiries into charges might itself be evidence of *mala fides* in the absence of explanation to the contrary. The employers have satisfactorily explained that matter and kept in abeyance after this Reference is the correct position under the Act was not clear if the employers must now proceed to frame charges and hold the enquiry expeditiously and move at their decision. If they find that the persons who have been suspended are not guilty of the offence with which they are charged, they shall exonerate them. If on the other hand the employers decide that disciplinary punishment is necessary, then the employers before giving effect thereto must move the Tribunal under Section 33. As to the enquiry itself it must be held as is usual in the presence of parties concerned and the evidence must be taken in their presence and they must be given opportunity to cross-examine and produce their evidence. The enquiry shall be completed within six weeks from to day. That is the order which the Tribunal can pass at present in the case of these five persons. If and when the Bank makes an application under Section 33 after the enquiry has been completed the Tribunal will then have to consider whether permission to punish should be given under Section 33. If the employer does not elect to exonerate the five persons or make the necessary application within six weeks then it is ordered that these five persons shall be deemed to have been exonerated.

Shri Mullick raises the question that under the terms of the guarantee the Head Cashier may decline to continue his guarantee in respect of these persons **even though the Bank exonerates them**. This is an entirely different matter and will be taken up and considered if and when it arises.

The representatives of the employees ask that at the enquiry one of them may be allowed to represent the case of the employees. Shri Mullick takes time to consider his position.

It is complained that the bonus which it is said forms part of the wage structure has not been paid to these five persons. Shri Mullick denies that the bonus forms part of the pay structure and he therefore denies that permission under Section 33 is necessary to withhold bonus from these five persons who have been suspended. I shall hear this point on Monday 26th June 1950.

Dia y Order of 26th June 1950

Re Payment of bonus to suspended employees

After my order of 22nd June 1950 the matter has been under review as to whether the persons who have been suspended pending enquiry should or should not be paid their bonus. This raises the question as to whether the bonus is part of the wage structure as contended by the employers, or whether it is an *ex gratia* payment as contended by the employees. It is impossible for me on a cursory examination of this question to come to any definite conclusion as to the nature of this bonus, and I would hesitate to do so in any event because the other Banks Tribunal has been dealing with this question of wage structure of the Banks and will no doubt deal with this question of bonus. I feel however that for the present the employers ought to pay this bonus as all employees in receipt of this bonus ever six months. Shri Mullick states that the payment of bonus has been the subject of an explanatory note of the Bank dated 31st December 1949 in which it is stated that in the absence of specific sanction of the Committee of the Central Board an employee under suspension shall be eligible for bonus. This presupposes the eligibility of everybody to bonus but for certain disabilities which are stated in the note. I feel that it will be more in keeping with the requirements of Section 33 (not to alter to the prejudice of the workmen conditions of service) if the bonus was paid and I direct

that this bonus shall be paid within one month from to-day to the six persons against whom the charges are pending. I repeat that I am passing this order without coming to any definite conclusion as to whether the bonus is part of the wage structure or is an *ex-gratia* payment, and that remains an open question.

Re allowing a representative of the employees' Union to represent the cases of the suspended employees at the enquiry.

As regards the six persons to whom I referred in my last order and as to whom I have ordered that an enquiry be held, Shri Mullick has no objection to the persons who will be charged being represented by a Member of the local unit of the Union. Shri Ghosh on behalf of the Association states that the Association which contains within itself the employees of the Bengal Circle should be allowed to nominate a person to represent the charged persons at the enquiry which will be held. He contends that in view of the present state of affairs and the circumstances leading to this adjudication it is desirable that somebody from the Central Association should represent the charged persons. There is some force in what he says, but on the other hand I have to take a broad view of the situation. I consider it to be sound trade unionism that local branches rather than the distant central Union should look after the immediate requirements of local employees. It has been urged that so far as the charged persons are concerned the enquiry will suffer if I make an order in that sense. I do not think so. After the charge sheet had been given to the persons against whom charges are to be framed, they will have an opportunity of stating fully in writing their whole case, and it will then be for the Enquiring Officer to apply his mind to both sides of the question and to ascertain how far the explanations which have been given affect the whole issue. Considering the fact that if the charges are proved, the matter will ultimately have to come to the Tribunal under Section 83, I do not think that there can be any objection to the charged persons being represented by a member of the local unit of the Association. I therefore order that a member of the local unit of the Union may represent the charged persons at the enquiry. Later, Shri Ghosh withdraws his above application for representation at the enquiry, but the order has been made and it stands.

Shri Mullick states by way of correction that in the case of Bishan Narnin the present state of enquiry is the same as the case of the other 5 persons, which means that the preliminary enquiry has been completed and charges will now be framed and enquiry held—requested that he may be allowed six weeks time to complete the enquiry. Six weeks time is allowed”.

I make the above Diary Orders a part of this award.

(3) *Sudhanshu Mitra and B. B. Mitra* (Nos. 8 and 10) withdrew their claims stating that they had received what they had claimed.

(4) *J. M. Roy* (No. 9) complains that he has not been allowed to cross the efficiency bar. The Bank states that in its opinion this employee is not qualified to pass the barrier. Shri R. K. Mitter, who is a second grade staff assistant of the Bank, gave evidence to the effect that Shri J. M. Roy who was working immediately under him was a poor type of clerk, below average, 55 years of age, suffering from high blood pressure and having a shaky hand. Shri Mitter is in the Securities Department which buys and sells Government paper; in this department bills of cost of securities and shares have to be prepared, a type of work which Shri J. M. Roy had declined to do as he found it too difficult; he was therefore given the work of filling up simple memos of sales. Shri J. M. Roy's service record starts with the remark 'satisfactory', rises to 'Very Good' between 1937 to 1943, and begins to decline from that year. In January 1944 there is a remark by his superior officer to the effect that he was getting past his best. It is the function of the Bank to decide whether any employee should

or should not be allowed to cross the efficiency bar; and this Tribunal is only concerned to enquire whether there has been any failure of natural justice or any form of victimisation in or about the Bank's decision. Shri J. M. Roy himself has not given evidence, and thus the points against him have not been rebutted. I am satisfied that the refusal of the Bank to allow him to cross the efficiency bar has not proceeded from any wrongful motive and was based upon the honest conclusion that Shri J. M. Roy was not fit to pass the barrier.

(5) The next claim concerns the following seven persons:

Bholanath	— Banaras
S. P. Nigam	— Banaras
J. N. Dutta	— Purnea
R. C. Ghose	— Local Head Office, Calcutta.
P. Chatterji	— Burrahazar Office, Calcutta,
H. Chowdhury	— Jalpaiguri
Sardar Lal	— Ferozepore.

These employees claim that they have been wrongly refused promotion from the lower grade to the upper grade. In the case of some of them it has been suggested that there was victimization, and in the case of others it was suggested that they were the Victims of favouritism. The Tribunal has had before it the service records of all these persons, and in response to the request of the employees the Bank has also produced for inspection by the Tribunal the service records of persons who had received promotion and who, it was alleged, were less qualified for promotion than the persons who now make this claim.

The Bank is under obligation to apply to the question of promotion the principles which the Gupta Award has laid down: "For all practical purposes it should be enough to have one Grade for men doing ordinary, less responsible jobs, and another for those entrusted with a more difficult and responsible type of work. X X All clerks should, as at present, be recruited through the Junior Grade, the Senior Grade being filled up by promotion. X X I have made provision in the new grades which I propose for Efficiency Bars, and the Bank may further hold some sort of an examination before promoting from the Junior to the Senior grade, if it so chooses. The crossing of Efficiency Bars, the promotion from one grade to the other must be left to the Bank who is the employer. Seniority and efficiency will no doubt be the guiding principles to be followed. It is not possible to tie the employer's hands with hard and fast rules in such matters." This award has not been replaced either by any subsequent agreement or by a fresh award, and its principles therefore stand.

The function of the Tribunal in matters of this kind is clear. It is not the function of this Tribunal to substitute its own judgment for the judgment of those who are not only qualified but also bound in duty in normal course or by Standing Orders, to arrive at decisions as to the internal administration and discipline in a concern; this Tribunal is not an appellate body to determine the correctness or otherwise of every act of the management, nor does it sit to make original decisions which the management must make. This Tribunal will undoubtedly intervene where there has been manifest error or injustice, or denial of any principle of Natural Justice, or some unfair labour practice, or victimization in the sense of harm done by an employer to an employee on account of the latter's labour activities; and to that extent this Tribunal exercises wide powers of supervision and interference; but the Tribunal will not otherwise intervene in the day-to-day decisions of the management in or about administration and discipline.

I purposely refrain from discussing in detail the service records of all these employees; it may do them more harm than good if I did so; it would be equally

unwise to discuss the service records of the other employees not before me who are said to have been favoured in the matter of promotion.

I have however carefully examined all the service records, not only of these employees but also of the employees who it is alleged have been favoured. All these records were also inspected by the Council for the employees. I am satisfied that the Bank has duly observed the principles of the Gupta Award, and that there is no justification for the charge that the promotion of these six employees has been wrongfully withheld or that there has been any favouritism or victimization in the matter of promotions. If I refrain from discussing this matter further it is because I wish to avoid saying anything which might conceivably operate to the future detriment of these employees. Their claims are accordingly disallowed.

It was suggested during the course of arguments that the Bank had failed to promote a sufficient number of persons in order to maintain the quota of one third in the upper grade as required by the Gupta Award. To my mind this contention is not well founded. The Bengal Code of the Bank ordinarily consisted of the whole of northern India including what are now parts of Pakistan. There is a fair allocation of upper grade posts between the Indian territory of Bengal Circle and the present territory of Pakistan, and it has been proved by the figures produced that the Imperial Bank of India has duly maintained the quota of upper grade clerks in the Bengal Circle of the Indian Union.

(6) The same decision as above applies to the cases of—

Shri Jugeshwar Prasad

Shri Thakur Prasad Singh

both of Muzaffarpur whose cases were presented by the Union.

(7) *J. L. Das*. The case of this employee has been presented in a somewhat different form. He too had not been promoted, and he contends that he had been thus victimized because of his Union activities. His evidence has been recalled at length and his service record has also been produced. He joined the Bank in December 1938 and was confirmed in 1939. The service record shows that he was considered 'satisfactory' between 1941 and 1943, 'good' in 1944 and 1945, 'very satisfactory' in 1947, 'satisfactory' in 1948. At the commencement of 1950 he was marked as 'good—recommended senior grade' and on 1st February 1950 'recommended suitable for promotion as clerk in charge of a sub-office'. These entries negate the suggestion that the Bank intended to perjure this employee on account of his Union activities of the last three years. It has been urged that as he was recommended for promotion it is strange that he should have been overlooked. That argument is not sound. It is the normal duty of the Agents of the Branches to recommend persons for promotion either every six months or at the end of the year to the Head Office, and it is then the function of the Head Office to sort out such recommendations in order to make promotions to the limited number of vacancies which are available. Although no doubt due weight is given to the recommendations of a particular Branch as to the fitness of an employee in that Branch for promotion, it does not mean that only the consent of the Head Office is required in order to finalise the promotion for the obvious reason that the number of vacancies are limited and they have to be equitably spread out in the whole circle. The other aspect of the matter is the right and the duty of the Head Office to decide as to who should receive promotion. The Head Office retains a copy of the

service record of the employees in all its Branches and has other materials upon which it comes to a conclusion as to which of the clerks deserve promotion in accordance with the terms of the Gupta Award. The Head Office in arriving at its conclusion takes into consideration *inter alia* the recommendations of the Branches, the service records of the employees, and the number of vacancies available, and when necessary makes further enquiries; thereafter it makes a selection of the employees for promotion.

I have carefully examined the service record of Shri J. L. Das and have also compared it with the service record of some of those who were promoted on the last occasion (records called for by the employees). So far as service records are concerned, the Bank has not exercised any arbitrary judgment in preferring the others for promotion. As to the charge of victimization on account of Union activities, if there was such victimization it certainly had not originated from the Branch Office where he was working, because the Agent of the Branch had twice recommended him for promotion to the upper grade. The Head Office too on 21st December 1949 wrote to the Darbhanga Branch that it had decided to appoint Shri J. L. Das as clerk-in-charge at the proposed pay office at Malda on 6 months' probation. Although this would not have meant Shri J. L. Das's promotion to the higher grade, it would have been a stepping stone in his future career in the Bank; and one would have expected that Shri J. L. Das would have taken advantage of this opportunity to better his career. Unfortunately he thought otherwise. On 28th December 1949 he wrote to the Agent at Darbhanga in following terms:

"I shall be obliged if you will please convey my following submission to Head Office with regard to my transfer to proposed Malda Pay Office.

I thank Head Office for their decision to appoint me as a Clerk-in-charge at the proposed pay office at Malda (under Purnea Branch). But in this connection I beg to state that the members of this Branch Association, of which I am one of the office bearers, apprehending a set back in the present set up of this Branch Association, request me to decline this offer. Moreover, I find, that this particular change will not suit my convenience in any way. It will put me to excessive economic loss and other inconvenience.

I therefore request Head Office to permit me to decline this offer for the present in the interest of the staff and in my own personal interest."

The plea that he declined to go to Malda because of financial loss is hardly sustainable, as it must be the lot of Bank employees who wish to improve their prospects to move to other places, and apart from this, he was to receive an allowance of Rs. 25 per month on account of this transfer plus the usual house allowance which the Bank gives. I asked Shri J. L. Das as to which was the more important reason for his declining to proceed to Malda to take up the higher appointment, whether it was his apprehension of 'a set back in the present set up' of his Branch of the Union or the expected financial loss; Shri J. L. Das said both reasons were to him equally important. Now Shri J. L. Das is entitled to loyalty to his Union even to the point of self-sacrifice, but he cannot be forgetful of his primary duty to the Bank. If, therefore, he considered his presence in Darbhanga to be so vital to the interests of his Union as to make him decline the appointment which the Bank had offered as a rise of his career, then he cannot successfully complain if he gets let behind in the race. There is nothing to indicate that the Bank took this letter into consideration when promotions were being made; but it would not have been

wrong for the Bank to have done so. I hold that there has been no victimization or unfair practice in the case of Shri J. L. Das, and there has been nothing wrongful in the fact that he was not promoted on the last occasion to the higher grade.

(8) *Stoppage of allowances*—A claim has been made by the employees that there has been 'stoppage of allowances (halting, travelling and transfer allowances) for clerical cash department subordinate and menial staff on transfer—temporary and permanent—from Darbhanga to Darbhanga Bazar Pay Office'. What is really meant by this claim is that when an employee of the Darbhanga Branch (Laheriasera) is sent on deputation to Darbhanga Bazar Pay Office, he should always be given full travelling allowance. This claim was subsequently reduced to conveyance charges. The policy of the Bank as regards the payment of travelling allowances for this class of temporary transfers has been stated by Shri Sarkar, who is the Bank's officer in charge of the staff section at the Head Office. "There is no practice to pay Travelling Allowance when the deputation is to a place within the same station or municipality. Supposing the Head Office deputed a clerk to go to Ballygunge on some special business, he would be paid his conveyance charges. But if a clerk is deputed for a period of days to go to Ballygunge he would not get Travelling Allowance. In the latter case he goes direct to Ballygunge from his house. If a clerk comes to the Head Office and is told that for the day he must work at Ballygunge he would get his conveyance charges. There were instances when the Darbhanga Agent paid clerks who were deputed from the Branch Office at Laheriasera to work at Darbhanga Bazar Pay Office, but the Head Office informed the Agent that this was not correct."

The employees have pressed that as payment of the nature which they have claimed had been made in the past at Darbhanga, I should hold that a custom had been established for such payment. It is, however, clear that the payments so made on a few occasions were queried by the Head Office. The Head Office frames the policy in regard to these matters and the branches have to conform to such policy. If a branch has by error made some payment contrary to that policy, which means contrary to the rules of the Bank, the employees cannot claim the continuance of such breach of the rules for their benefit. I do not see anything inherently unjust in the rules of the Bank regarding this travelling allowance, except may be that they have not provided for possible cases where owing to transport difficulties a temporary transfer may impose an undue burden on the employees, and to that extent the Bank ought to reconsider its rules. In the result I hold that there has not been any wrongful stoppage of the allowances claimed.

(9) Shri Ashutosh Mukherjee, an employee, made a claim that he has not been promoted to Senior Grade. He subsequently withdrew his claim; and his claim is therefore dismissed as having been withdrawn.

Reference No. 2 of 1950

CENTRAL BANK OF INDIA LTD.

Shri S. M. Basu Counsel for the Bank.

Shri M. M. Sen Counsel for the Central Bank; Indian Staff Association, Calcutta.

At the commencement of the hearing Shri Sen said that he was raising in all five issues concerning the following persons:

- (1) Sailen Banerjee, who it was alleged had suffered arbitrary alteration of service conditions;
- (2) Suraj Nath Lal, who it is alleged had been wrongfully dismissed.
- (3) Ram Raj Singh, a peon, alleged to have been victimised

(4) Eight persons named in paragraph 17 of the claim, viz —

- (1) S K Banerji
- (2) R K Samazdar
- (3) P K Nivogi
- (4) Bhabatosh Gupta
- (5) Sant Prasad Baii
- (6) D N Sen Gupta
- (7) D J Ganguly
- (8) Gopi Ballav Dutt

Alleged to have been victimized by deprivation of bonus and stoppage of two annual increments

(5) Victimization of the eight persons mentioned in paragraph 16 of the claim who are now being prosecuted before a Magistrate, namely

- (1) N C Paul
- (2) Pashupathi Banerjee
- (3) D N Sen Gupta
- (4) J N Ghosh
- (5) H N Bhattacharjee
- (6) K D Roy
- (7) Primal Roychowdhury
- (8) S N Sanyal
- (9) Ramchandra Shukla

(1) *Satlen Banerjee* by his negligence had involved the Bank in a loss of something like Rs 70,000, as a result of which he was demoted from the grade of Supervisor to the grade of clerk. Shri Sen has not raised any issue on the question of his demotion but contends that as he had been demoted and had suffered the punishment for his fault, he cannot now be deprived of the increments of his new though lower grade, in the absence of any further default. Shri Basu for the Bank agrees that *Satlen Banerjee* shall receive the increments due to him in his new grade and it is ordered accordingly.

(2) *Suraj Nath Lal* was an employee in the Cash Department. He joined service of the Bank on 23rd August 1947 at the Buriabazar Branch and was transferred to Bhowanipore Branch on 10th March 1948, and the last increment that he received was in July 1949. His duties were those of a godown keeper, firstly in the rice godowns and subsequently in a godown of engineering stores. The Agent of the Bhowanipore Branch has stated in his evidence that when the Accountant went to inspect the godown Lal was unable to differentiate between the various engineering articles and had not familiarised himself with them, it was also reported that there were pools of water in the godown and that some bags were actually lying in the water. When asked for an explanation Lal did not reply. The owner of the engineering stores provided mazdoors for the purpose of clearing the water and removing the bags to a dry place, but Lal left the place before the work was finished, when asked to come next morning at 10 A.M. he arrived an hour later. These matters were brought to the notice of the Chief Cashier by the Bank and the Chief Cashier thereupon terminated Lal's services. It does appear from the correspondence that the Agent of the Bhowanipore Branch regarded Lal as a temporary employee, that was not correct as Lal had over two years service to his credit, and under Shri Sen's Award he had become a permanent employee of the Bank. No charge sheet had been issued against Lal, and there was no enquiry into the allegations against him, and it is therefore urged that the termination of his services was wrongful and that he ought to be reinstated.

This case has raised an issue of importance arising out of the relationship between the Chief Cashier and the Bank concerning the employees of the Cash,

Department. The Cashier has been appointed in terms of an agreement (Ex. 22) of which the relevant clause for the purposes of this issue reads as follows —

“Clause 3 — During the continuance of their employment the Cashiers shall undertake the duties of and be responsible as Cashiers of the said offices and shall engage and employ all such subordinate Cashiers, Sikars, Munshis, Writers, Cash Keepers, Poddars, Godown-keepers, Assistant Godown-keepers, Peons, Chowkidars, and such other persons as may be necessary for the efficient working of the said offices (who are hereinafter collectively referred to as ‘The Cash Department Staff’) all which persons they may control, dismiss and change at their pleasure, provided however that the Cashiers shall not so engage or transfer any member or members as may not be approved of by the Bank and shall dismiss any member or members of the staff so engaged by them on being required to do so by the Managing Director of the Bank or the Agent of the Clive Street Branch or by the Agent of the office at which such member or members shall be serving and shall engage in his or their place another or others qualified to discharge the duties of the member or members so dismissed.”

It would appear from this agreement that the Cashiers are to appoint the staff of the Cash Department, and shall have power to control, dismiss and change them at their pleasure subject only to two conditions: (a) that the Cashiers shall not engage or transfer any member or members as may not be approved by the Bank, and (b) shall dismiss any members of the staff engaged by them on being required to do so by the Bank.

By Clause 17 of the agreement it is provided that “nothing contained in Clause 3 hereof concerning the appointment of the members of the ‘Cash Department Staff’ subject to the approval of the Bank will affect or diminish the liability and responsibility of the Cashiers for all acts and things done or omitted by any member of the Cash Department Staff under any of the other clauses of this agreement”, and by Clause 19, the Bank undertakes to pay direct to each member of the Cash Department Staff such salary as the Bank may have agreed or may agree to at the time of his appointment, having regard to the prevailing rate of salaries and to the Rules and Regulations of the Bank. Clause 18 provides for the remuneration of the Guarantee Cashier, and clause 23 relates to the guarantee given by the Cashiers to the Bank in respect of acts of omission and commission by the staff of the Cash Department.

This system of Guarantee Cashiers is not confined to this Bank; it is found in some form or other in the larger Banks, and is a system which the Banks seem to favour. That being so it would be unwise to interfere in the time honoured relationship between the Bank and the Guarantee Cashier concerning the employees of the Cash Department of the Bank, except to the extent that it becomes necessary to do natural justice to these employees. In accordance with modern notions of social justice, it must be our aim to provide some security of service for the employees, some protection against the capricious exercise of arbitrary power to their detriment, and in the case of the Cash Department employees of these Banks, without impinging, if possible, on the accepted form of agreement between the Bank and the Cashier.

There can be no doubt that when a person seeks to be an employee of the Cash Department of the Bank, he takes service with open eyes, conscious of the fact that the Cashier's guarantee covers his acts, and that he is liable to dismissal at pleasure. But that does not conclude the matter. I recognise that service in a Bank must be founded in integrity, and that loss of confidence, reasonably so found, is sufficient to justify the removal of an employee of the Cash Department. I am further prepared to accept that loss of confidence in an employee of the Cash Department may not be confined to his work, but may extend to other factors of his being or to his financial circumstances, which may

be reasonably said to militate against his retention in the Cash Department. But nevertheless I have no doubt whatever that justice demands that some provision shall exist to thwart or compensate for any capricious exercise of the power of dismissal.

It has been stated by the Bank that in the case of Lal, although the Bank had brought to the notice of the Guarantee Cashier the dereliction of duty on the part of Lal, yet the termination of his service was effected by the Guarantee Cashier acting under his agreement, and the Bank urges that in any event the facts and circumstances were such that it was considered unwise to allow Lal to continue in service after it had been brought to the notice of the Bank that he had been inefficient and negligent as a godown keeper.

It may well be that it could be established that Lal was in fact guilty of negligence or omission of duty in regard to the engineering stores of which he was in charge as godown keeper, and it is true that the Bank had an interest in the goods. But Lal was not charged with the offences of which he was said to be guilty and he had no opportunity of placing his case for consideration in an impartial way. Lal was and had always remained an employee of the Bank, and, however anomalous the position may have been whereby Lal, while being the employee of the Bank, was nevertheless dependent for his employment at the pleasure of the Guarantee Cashier, the duty of the Tribunal is clear, namely, to see that an employee in the position of Lal has not been treated in violation of the principles of natural justice. It is not a question of *mala fides*, it is a question of fundamental protection of an employee.

It has been urged that the term 'natural justice' is much too elastic, and to employers it has become repellent as being synonymous with haphazard benevolence but that is not the truth. I appreciate the argument that Tribunals vested as they are with plenary powers of establishing conditions of service even contrary to contract should act with caution. But there is a basic misconception in regarding natural justice as some haphazard or arbitrary expedient adopted by a Tribunal to meet a contingency. It is actually very different. The principles of natural justice, far from being haphazard, are rooted in law and equity and are inspired by ethical notions of human conduct. In England they have grown up with the Common Law, in India most of such principles have been incorporated in our statute law or have been otherwise recognised by the Courts but the process is never ending in a world which changes every day. One of the earliest doctrines of natural justice demanded that 'no man shall be condemned unheard' and it is the duty of this Tribunal to enforce it and its cognate principles, so that the poor employee with small capacity and no funds shall not be at the mercy of capricious power. If, therefore, I proceed to state the doctrine and frame the Rule it is only in order to give effect to the fundamental right which in the present state of our social conscience cannot be denied to the workman.

What then does natural justice demand in the circumstances stated? It cannot of course demand less than that the person to be removed should have a chance of meeting the charges against him so as to preserve the security of his service. I have given careful thought to the matter in order to define certain principles for securing natural justice as would protect the employee and at the same time leave the agreement between the Bank and the Guarantee Cashier unaffected. In my opinion the requirements of natural justice would not be satisfied in the case of these Cash Department employees unless the following principles were recognised and observed —

- (1) If an employee is dismissed or his services terminated by the Guarantee Cashiers 'at their pleasure', as they are entitled to do in terms of the agreement, the Bank shall pay to such employee compensation at the rate of one month's emolument for every year of

service with a minimum of four months' emoluments (emoluments shall include all allowances, privileges and benefits). The employee will also be entitled to one month's notice or one month's salary in lieu of notice, and all leave pay.

- (2) It shall be open to the Guarantee Cashiers to ask the Bank to hold an enquiry into any allegations against the employee of the Cash Department who, the Guarantee Cashier considers, ought to be removed, in which case the Bank shall issue a charge sheet and shall hold the enquiry, and if duly satisfied that the charges have been proved and that the removal would be justified, shall give intimation thereof to the Guarantee Cashier who may then act thereupon; termination or dismissal thereafter will not attract any compensation. If, however, the Bank holds that the charge has not been proved, or if proved does not merit dismissal or termination of service, and if in spite of that the cashier dismisses, or terminates the services of, the employee, then compensation shall be paid as aforesaid.
- (3) If the Bank desires the dismissal of an employee of the Cash Department, it shall issue a charge sheet and investigate the case against him, and if satisfied that the charge has been proved and that the proper punishment is dismissal or termination of services, it may move the Cashier to dismiss the employee or terminate his services, as the case may be, in which case no compensation will be payable.

Observance of the above rules should not be difficult for the Bank, for in the case of all its other employees the practice of charge sheet and enquiry governs disciplinary action, and by observing the above principles the Bank will merely be applying to its Cash Department employees the principles which they are already applying to the rest of their staff. It has been said that in all matters of dismissals or termination of service there has never been any divergence of views between the Bank and the Guarantee Cashier. If that be so, there ought to be no difficulty in persuading the Guarantee Cashier to aid the Bank in the observance of principles which conform to reasonable notions of conduct.

As regards the facts it may well be that there was nothing *mala fide* on the part of the Bank in the case of Lal; there was a *prima facie* case of negligence against him; but there was no charge sheet and no enquiry into the allegations, and to that extent a wrong has been done. Lal did not appear at the hearing, and therefore the evidence of the Bank as to his negligence is un rebutted. On the other hand, if an enquiry had been held by the Bank, the punishment might well have been less severe than dismissal, although we cannot speculate on that; there is also the fact that the Agent of the Branch was pressing for the removal of Lal, and it was on his persistent representations that the Cashier terminated Lal's service. I do not think that Lal's case can be taken out of the general rule, and it is therefore ordered that Lal shall receive the benefits stated in the first of the principles above stated.

I asked Counsels as to their reaction to the above statement of principles for achieving natural justice which I considered applicable to cases of this sort. Counsel for the employees welcomed them. Counsel for the Bank, however, objected on the ground that I had no jurisdiction to state any such principles, and, secondly, that the four months salary to be given as compensation was in his opinion penal. As to the question of jurisdiction, I have no doubt in the matter. It is not possible to decide Lal's case without first ascertaining the principles governing it. As to the complaint that the character of the

compensation is penal, the answer is that natural justice demands that it should be designedly heavy in order to curb malpractices.

(3) *Ram Raj Singh* was a peon who unfortunately became insane. He recovered his sanity and was asked to appear before the Bank's Medical Officer. The Medical Officer reported as follows.—

"He lost his head. Now he appears to be all right, but I would not recommend him to any responsible work."

The Bank therefore was not prepared to take him back after his return from a long leave. *Ram Raj Singh* now asks for reinstatement. He was away for six months and has now got other work. I do not think I shall be justified on the facts in compelling the Bank to take back the employee in view of the medical report which has been filed. *Ram Raj Singh* has asked by his letter of 6th January 1950 that he be allowed half pay during the period of his sick leave, which I understand was about six months. The Bank has agreed to pay him *ex gratia* three months full pay in lieu of six months' half pay leave, and it is ordered accordingly. I am told that *Ram Raj Singh* has received everything else to which he was entitled.

(4) This issue relates to five employees of Shambazar Branch of the Central Bank of India Ltd., viz., *Sudhir Kumar Banerji*, *R. K. Samazdar*, *P. K. Niyogi*, *Bhabatosh Gupta* and *Durwan Sant Prasad Bari*; and three employees of the Main Office staff of Calcutta, viz., *D. N. Sen Gupta*, *D. J. Ganguly* and *Gopi Ballav Dutt*.

It would appear that there was an incident of disorder and assault on officers at the Shambazar Branch on the 7th January 1950, and a second incident of similar character at the Main Office at Calcutta on the 9th January 1950, in consequence of which certain charge sheets were issued and enquiries held with a view to disciplinary action. In the case of *Sudhir Kumar Banerjee*, a dismissal order had been passed in his absence as he had not responded to the charge sheet; but it appears that as he was on leave and had not given his proper address, the charge sheet had not reached him. As to the others, an enquiry was duly held, but before any orders were passed in their cases, each of the aforesaid employees individually sent the Bank two letters in forms Exhibits Q and R. In the first letter the employees gave an unconditional apology for the incidents, and in the second letter they asked to be forgiven and to be allowed to continue in service, accepting that the Bank might take against them any disciplinary action such as stoppage of bonus and of one or two increments, and giving an assurance of future good conduct. It has been urged by the employees before the Tribunal that these two letters were given under pressure, and that therefore no liability attaches under them, and that therefore the Bank's order depriving them of bonus and increments for two years should be cancelled. The Bank has denied all allegations of pressure, and has contended that the employees in anticipation of the punishment justly due to them for their misbehaviour requested the Bank to accept their apology and submitted themselves to the disciplinary punishment given.

There has been a very careful hearing on this issue, and a considerable volume of evidence has been recorded. There are two aspects of the matter to which I drew attention of Counsel at the stage of addresses. Firstly, that if the charges against the employees were held by this Tribunal to have been established, then obviously the Bank had shown great forbearance in the punishment which had been meted out and which the employees had accepted by their letter, viz., loss of bonus and increments for two years. Secondly, these employees are mostly young men—lacking discipline and victims of an unhealthy ferment—and it is unfortunate that they should go through life with a grievance that at the very threshold of their careers they were deprived of two increments, even though the blame was theirs.

Therefore, at the conclusion of the hearing, I suggested to the parties the lines on which I was approaching this problem, and what I considered would be a satisfactory solution. The parties readily agreed that there should be a consent order in the following terms and it is ordered accordingly:

' If at the end of five years heretofore these employees have a record in the Bank of good and loyal service, they shall be entitled at the end of that period to two additional increments at the rates at which they have been deprived of the same. If the Bank is inclined to give any further concession, there will be nothing to prevent it.'

(Illustration: If A loses one increment of Rs. 5/- in the first year, and another increment of Rs. 5/- in the second year, he shall be entitled at the end of five years' good and loyal service from to-day, to an increment of Rs. 10/- in addition to any other increment to which he may be ordinarily entitled.)

Shri Sen asks me to record that these employees may be allowed to carry on their Union activities. Shri Basu agrees. It is obvious that it is no derogation of good and loyal service that employees should carry on legitimate trade union activities; but I may add that it does not include the posting of offensive placards in the Bank premises, or making speeches and creating disturbances in a dignified place like a Bank, or the carrying on of Union activities in the Bank premises during office hours.

I consider it desirable in the interest of the Bank as well as of the employees concerned that the aforesaid persons should be shifted from the offices in which the incidents occurred by way of inter-change of clerks with other branches.

It is agreed by the Bank that Sudhir Kumar Banerjee should receive salary for the period from 25th January 1950 to 28th February 1950.

(5) This issue relates to alleged victimization of the eight persons mentioned in paragraph 16 of the claim against whom criminal prosecutions are pending. They are alleged to have created the disturbance of 9th January 1950 and to have assaulted officers of the Bank. Shri Sen applied for a postponement of this issue till after the determination of the prosecutions, which had started in January 1950 and which would take at least another 3 or 4 months or more to complete. I refused the postponement for reasons stated in my Order of 9th June 1950.

As Counsel was not prepared to proceed with these cases, the complaints are dismissed.

(6) The Class IV employees of Burrabazar Branch withdrew their claims and their claims are therefore dismissed as having been withdrawn.

Reference No. 3 of 1950
THE BANK OF INDIA LTD.

(Shri M. R. Sen)

Shri Satis Sen for the Bank.

Shri M. R. Sen in person.

There is only one claim filed against the Management of this Bank. One Shri M. R. Sen was, according to his case, a member of the coveranted officers staff. Arising out of an alleged fraud he is being prosecuted, and was dismissed from Bank's service in October 1940; he last held the position of Branch Accountant, and his salary at the time of dismissal was Rs. 495/- per month. He states that there is a sum of Rs. 6,000/- to Rs. 7,000/- in the Provident Fund to his account, and he asks the Tribunal to use its good offices to make available to him such of the moneys from the Provident Fund as may be required by him for the conduct of his defence.

It appears *prima facie* that Shri M. R. Sen is not a 'workman' within the meaning of the Industrial Disputes Act. There were defalcations in the Bank to the extent of some Rs. 20,000 in respect of which prosecution is pending. The Provident Fund amounts to Rs. 6,000 or Rs. 7,000/— and it is said by the claimant that some portion at least of this should be released to enable him to meet the cost of his defence.

Apart from the conclusion that the claimant cannot be regarded as a workman, I have no jurisdiction to pass orders against the persons who are controlling the Provident Fund. By clause 2) of the Provident Fund Rules, the management, investment, administration and control of the fund has been vested in Trustees, and the decision of the Trustees on all matters relating to the fund is final and binding on the members and their representatives and on the Bank. It would appear that the remedy which the claimant seeks is a remedy against the Trustees of the Fund and as they are not before the Tribunal and as the reference does not extend to them, I have no jurisdiction in the matter. The claim therefore cannot be allowed.

Reference No. 10 of 1950

HONG KONG AND SHANGHAI BANKING CORPORATION

Shri J. K. Dutt, President of the Employees Union

Shri S. K. Mullick for the Bank

Two issues were raised on behalf of the employees of this Bank.

(1) It was alleged that two clerks, viz.

Shri Satya Charan Bhui, and

Shri Kedari Nath Guni

had been wrongfully refused their annual increments of Rs. 10/—,

(2) Two Class IV employees

Chedi and

Tuloki Singh

have claimed that although they were granted two months sick leave in continuation of privilege leave they were not given the salary for such sick leave.

(1) The Hong Kong & Shanghai Banking Corporation had agreed to apply the terms of the Imperial Bank of India Award of September 1947, and in terms of that award these two clerks had been promoted to the Upper Grade. According to that award there was an efficiency bar upon attaining the grade of Rs. 180/— and the Bank has not allowed these two clerks to cross the efficiency bar on the ground that they are not fit to do so. It has been contended on behalf of these two employees that the efficiency bar may be applied only in the 18th year of service and as these two clerks have gone beyond that stage the question of efficiency bar does not arise. There is, however, nothing in the Imperial Bank Award to justify the contention that the efficiency bar was to be applied in the 18th year of service. On the contrary it is clear that the efficiency bar is operative when the clerk has attained the grade of Rs. 180/—. Strictly speaking, these two employees have no sustainable case against the Bank as they have not alleged that there was anything wrongful in or about the process by which they were declared unfit for passing the efficiency bar. But I do not like to leave the matter there. An employee whose services have been all along satisfactory reasonably expects that he would be allowed to pass the efficiency bar in the normal course and that he would therefore, receive the future increments which have been given in his scale. There is always the danger that an employer may wrongly utilise the efficiency bar to deprive an employee of his just increments although such a situation does not in any way arise in the case before me. When therefore a Bank refuses to allow an employee to pass the efficiency bar it is necessary that intimation

of the reasons moving the Bank thereto, should be given to the employee if he asks for it, so that he may be in a position to make suitable representations on the subject, and also rectify any shortcomings so as to be able to cross the barrier. While I do not say that the order of the Bank refusing permission to these two clerks to cross efficiency bar was wrong, I direct that the Bank shall give the employees a short summary of the reasons for not allowing them to cross the efficiency bar, and will hear and decide upon such representations as the employees may make in that behalf. The same procedure should be followed year by year whenever there has been a refusal to allow an employee to go beyond the bar.

(2) Two Class IV employees Chedi and Triloki Singh have claimed that although they were granted two months sick leave in continuation of privilege leave, they were not given the salary for such sick leave. The leave charts of these two employees have been produced, and shows a singular inclination on their part to take a couple of months of sick leave to be tagged on their privilege leave. In this case, as the Bank has allowed the sick leave, the question arises as to what sick leave pay these two employees should get. The Imperial Bank Award, which this Bank has adopted, has provided that sick leave is allowable to the extent of one month for each year of service upto a maximum of 12 months, provided that there is a medical certificate in support; sick leave will not be granted when privilege leave is allowable. It would therefore appear that these two employees are each entitled to pay for one month's sick leave, and it is ordered accordingly. This must not be taken to mean that this Tribunal recognises that there is a customary right to take sick leave as a matter of course in extension of earned leave. It is for the Bank to be satisfied that the application for sick leave is based on genuine grounds, and the Bank may require reasonable proof in support.

Reference No. 14 of 1950

THE NATIONAL CITY BANK OF NEW YORK

Shri S. K. Mullick Counsel for the Bank.

Shri H. K. Nandy appears on behalf of the employees.

The employees in this Reference have raised questions relating to security of service, leave, provident fund, gratuity, bonus, salary and pension, allowances, medical etc., etc. These are matters which are now being investigated by the other Banks' Tribunal, and therefore they do not fall within the purview of this Tribunal. The claims are accordingly dismissed.

Reference No. 17 of 1950

ALLAHABAD BANK LTD.

Mr. G. F. Kennedy of Fowler & Co., for the Bank.

Shri M. L. Chakraborty for Allahabad Bank Indian Staff Association, Calcutta.

This is the claim of ten clerks who allege that their increments have been stopped. They are:

- (a) Shri Mahendra Pratap Singh,
- (b) Shri Narsingh Narain Srivastava,
- (c) Shri Pusupati Singh,
- (d) Shri Jagdish Narain Singh,
- (e) Shri Mukul Kumar Mukherjee,
- (f) Shri Sushil Kumar Banorjee,
- (g) Shri Abhiram Jha,
- (h) Shri Sukhdeo Prasad,

(i) Shri Girija Nandan Singh, and

(j) Shri Ramadbar Dubey

The facts are shortly these: In November 1946 the Bank gave a voluntary increase of 25 per cent. on basic pay. Then in April 1947 there was an award of the Bombay Industrial Tribunal concerning the Bombay Branch of the Allahabad Bank. The Calcutta Branch adopted the pay scale given by the Bombay award and confirmed the increments of 25 per cent. with retrospective effect from August 1946, subject to this condition that increments which may have fallen due between 1st January 1947 and April 1947 would be adjusted when giving retrospective effect to the advance. This arrangement was applied to all the clerks of Calcutta Office, and nobody objected to it. The Head Office decided that future increments were to commence from 1st January 1948, and that was also duly accepted and put into effect. Then in May 1947 the Mercantile Tribunal in Calcutta considered the claims of the employees of this Bank, and decided that the 25 per cent. increase which had been given in 1946 on basic pay should be extended to local allowances. It was while the necessary adjustments were being made in consequence of this award that a mistake occurred. By an error, the increments given to clerks between 1st January 1947 and 24th April 1947 were not deducted, and the ten clerks now before me benefited by that error. The Bank, while not claiming to recover the earlier payments, has regularised the error by eliminating the one increment calculated by mistake. To my mind the Bank was justified in rectifying a clerical error of their Accounts Department, as it was nothing more than that. Furthermore the employees have had two previous opportunities to object: they could have raised it as an issue not only before the Mercantile Tribunal in Calcutta, but also before the other Banks' Tribunal, but they did not do so; and I have no doubt that they were satisfied that nothing more than a clerical error was involved. The claim is therefore not allowed.

Reference No. 20 of 1950
PUNJAB NATIONAL BANK LTD.

Shri S. M. Basu with Shri Chunnulal Rawla, Manager of the Bank at Calcutta, for the Bank.

Shri S. Sanyal, Secretary of the Punjab National Bank Employees' Union, Calcutta.

Three sets of complaints were filed before this Tribunal, but two of them were withdrawn at the hearing. The only complaint left was the one relating to five Jemadars by name:

- (1) Shri Benimadho Singh,
- (2) Shri Sheodas Singh,
- (3) Shri Baban Singh,
- (4) Shri Ramdas Singh,
- (5) Shri Ramsarikha Singh.

It was urged on their behalf that they had not been paid the increment the rate of Rs. 3.

It has been said on behalf of the employees that there was an agreement reached between them and the Bank that the Bank would accept the Central Bank's Award (Provincial) as being applicable to its employees. For the Bank it is stated that it was the intention of the Bank, as subsequently translated into practice, to apply the Central Bank's Award to its own employees but subject to such modifications as particular cases required; that it was never

agreed that the jemadars of this Bank would receive the same scale as given to the jemadars of the Central Bank.

The Central Bank of India Ltd. has given its jemadars the scale of Rs. 65-3-80. The jemadars of this Bank have been receiving the scale of Rs. 30-2-50-1-65.

The issue really amounts to this: what was the scale which the jemadars of this Bank were to receive? There is no dispute that the future scale is at present the subject of investigation by the other Bank's Tribunal, and until they make their award, the scale must remain what it was before. I have recorded a considerable amount of evidence to ascertain whether the jemadars' scale of Rs. 30-2-50-1-65 was at any time altered to Rs. 65-3-80, because unless it was so altered the claimants cannot be entitled to increment at the rate of Rs. 3 a year. There is no evidence on which I can conclude that the original scale of the jemadars was changed. According to Shri S. Sanyal, the Secretary of the Union, they raised this same question of increment before the other Banks Tribunal, but subsequently withdrew it on the ground that the parties were settling amicably. This indicates that the question of altering the existing scale was a subject in dispute. Since the existing scale has not been altered, and since fixing of the future scale is a matter before the other Banks' Tribunal, I hold that the claim of the employees to increment of Rs. 3 a year has not been substantiated.

Reference No. 21 of 1950.

UNITED COMMERCIAL BANK LTD.

Shri Dr. R. Patney, Officer on Special Duty, appears on behalf of the Bank.

Shri A. Shah, General Secretary, United Commercial Bank Employees Association, Calcutta, appears for the Employees.

By consent of parties the claims of the Employees of this Bank in West Bengal were heard together in Calcutta.

The Assam Branch Employees withdrew their claims and the claims were accordingly dismissed.

The claims submitted to the Tribunal by the then General Secretary of the United Commercial Bank Employees' Association have also been withdrawn and have been dismissed.

Similarly the claim of Shri S. R. Rai Chowdhury has been dismissed as having been withdrawn.

The claims of the following persons were considered:

- (1) B. B. Mukherjee,
- (2) Dhananjay Bhattacharjee,
- (3) Gopes Ranjan Paul,
- (4) S. S. Mukherjee,
- (5) P. R. Roy,
- (6) R. R. Chanda,
- (7) G. C. Dey, and
- (8) M. N. Mitra.

(1) B. B. Mukherjee, D. Bhattacharjee, G. R. Paul and S. S. Mukherjee have identical claims. The latter two did not appear before the Tribunal but were represented by their Union. They claim that the increment due to them in 1949 has been wrongfully withheld. The Bank has contended that the increments were withheld because these employees had taken leave too

often during the year 1948 and had also been late in attendance. They filed a statement to show that B. B. Mukherjee had taken leave on ten occasions and had been late 27 times; that D. Bhattacharjee had taken leave on twelve occasions and had been late 18 times; that G. R. Paul had taken leave on eight occasions and had been late 16 times, and that S. S. Mukherjee had taken leave on eight occasions but had not been late in attendance. It is, however, clear from the evidence that the increments could not have been withheld by the Main Office on the ground of late attendance for the simple reason that the fact of late attendance had not been communicated by the Cornwallis Street Branch to the Head Office which passed the orders. Furthermore, it is in evidence that although these four employees asked to be informed of the reason why their increments had been withheld, and such letter was transmitted through the Cornwallis Street Branch to the Head Office, no reply was forthcoming, the Manager of the Cornwallis Street Branch told them "possibly because of their bad leave record". As to the allegation of 'bad leave record' the employees are entitled to a month's privilege leave and 15 days casual leave in the year. Whenever an employee requires leave he applies in due form to the Bank for such leave, and the Bank after being satisfied as to the validity of the application grants it; and that is the usual procedure everywhere. I think it is less than just that the Bank should grant leave, and thereafter at the end of the year withhold the increment on the ground that leave has been taken too often. If the Bank thought that leave had been taken too often, it was the duty of the Bank to try and rectify the position whenever applications for leave were made. Apart from the fact that figures of late attendance were not before the Head Office when orders were passed withholding the increment, it does appear from the evidence that the attendance record of these persons has considerably improved in 1949. While I do not suggest that habitual late attendance would not be a suitable ground for withholding increments, it has no application to the facts of this case. Considering all these factors, and also the fact that the Manager of the Cornwallis Street Branch recommended the increments, I am of the opinion that the increments ought to be granted, and it is ordered accordingly.

I may add that where an increment is refused, and the employee asks for the reason for such refusal, it is the duty of the Bank to give a short summary of the reasons.

(2) *P. R. Roy* was engaged as a stenographer in terms of letter of 16th May 1946 (Ex. B):

"With reference to your application of the 15th instant for appointment in our Bank, we shall be glad to take you as a stenographer on a salary of Rs. 125 per month plus Rs. 25 as dearness, war and emergency allowance.

The terms of appointment include benefit of provident fund and such other privileges as may be sanctioned for the staff.

You will be on probation for 3 months, and you will be confirmed after that period if your work is found satisfactory.

If you accept our appointment, please signify your consent on the enclosed copy of this letter".

P. R. Roy noted below that he accepted the above terms. P. R. Roy started service on 16th May 1946 and has received three increments of Rs. 15. Rs. 10 and Rs. 10 respectively. He complains that he has been wrongly paid increments of only Rs. 10 whereas he should have been given increments of Rs. 15 in the scale of Rs. 125-15-185-20-225 which he claims was his fixed scale. He also contends that he has been unjustly deprived of his bonus.

Beyond this letter Ex. B there is no indication that any scale was fixed for this stenographer. The Bank has stated, and it has not been denied, that there are stenographers in this Bank on varying salaries according to their efficiency and work, the scale of Rs. 125-15-185-20-225 is the fixed scale of the Junior Officer, and there is nothing to indicate that the scale was applicable to P. R. Roy. I am unable to hold that there was any scale fixed for P. R. Roy or that there was anything wrong in the Bank's giving him increments of Rs. 15, Rs. 10 and Rs. 10 in 1947, 1948 and 1949. If he had a grievance when his increment was reduced from Rs. 15 to Rs. 10, he should have presented his complaint to the other Banks' Tribunal which has jurisdiction in respect of matters up to 13th June 1949; that Tribunal will be fixing the wage structure of the Bank, in which case the scale of P. R. Roy would be duly fixed. I am unable to pass any order for the increase of increments as claimed.

As to the question of bonus, the Bank decided to give an *ex gratia* bonus at the rate of one-twelfth of the remuneration received by an employee during the year 1949 free of income-tax, and instructions were issued that the General Manager shall be authorised to withhold payment or pay bonus at a lower rate in respect of any employee whose work, in his sole discretion, was such as not to deserve full bonus or to deserve smaller bonus. The Bank contends that the bonus was not paid to P. R. Roy because his work was unsatisfactory. It is true that the Head Office had been sanctioning P. R. Roy's increments for the last three years; but it is equally true that the officers for whom P. R. Roy was supposed to work as stenographer had found his work consistently unsatisfactory, I accept the evidence which Mr. Seshan had given that he so lost his patience with the work of P. R. Roy that he stopped giving him dictations for the last two years. I am of the opinion that the weight of evidence indicates that the quality of his work is poor, and he has shown no signs of improvement. In fact his present work appears to be mostly that of a typist. Be that as it may, he has been given his increments, and his faults suggest inefficiency rather than slackness; and as he has been already rewarded for his inefficiency by three substantial increments, I do not see why he should not be paid his bonus—ordered accordingly.

(3) *G. B. Sen Gupta* made a claim for re-instatement; and a preliminary question was raised as to whether he is a "Workman". If he is not a 'workman' then this Tribunal would not have jurisdiction to entertain his claim. *Shri Sen Gupta* was the Manager of the Dacca Branch and subsequently Manager at Gauhati. He was thereafter called to the Head Office at Calcutta and placed on duty for 15 days before his services were terminated. He states that while he was in the Calcutta Office during the last 15 days of his service he was made to do clerical work in the share department; he knew at that time that he had been recalled to the Calcutta Office pending orders on his case. His salary in Calcutta was Rs. 430 as against Rs. 480 in Gauhati, but the difference is accounted for by the fall in allowances upon his coming to Calcutta. I cannot possibly regard *Shri G. B. Sen Gupta* as a 'workman' within the meaning of the Industrial Disputes Act. His work was certainly no 'mainly clerical'; he was on the managerial staff, and assuming that he did miscellaneous work in the Head Office in Calcutta for 15 days until orders were passed on his case, that would not convert a 'manager' into a 'workman'. My attention has been drawn to the definition "industrial dispute": "Industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. It is urged that the expression 'any person' is wide enough to include a person who is not an employer or a 'workman' within the meaning

of the Act, and that this Tribunal would have jurisdiction to consider any dispute concerning such a person in his relation to the employer or the workmen. To my mind this contention is fanciful. If accepted, it would mean that the Managing Director of a concern could bring his troubles before this Tribunal provided that a 'workman' could be induced to sponsor his case. That such a situation could never have been contemplated by the legislature is to my mind apparent. The whole tenor of the Act indicates that the disputes intended to fall within the purview of the Act were to be the disputes between employers and workmen, and the words 'any person' in the context in my opinion cannot possibly have an extension beyond that range.

I hold that I have no jurisdiction to consider this employee's case and it is ordered accordingly.

(4) Two employees R. R. Chanda and G. C. Dey of the Jalpaiguri branch have objected to the withholding of their bonus. It is not disputed that the bonus was in the nature of a gratuity. There were several charges against these two employees, and Shri Seshan, an officer of the Bank, was sent to enquire into the charges. He gave his report to the Bank, in which he stated that he found an atmosphere of inefficiency and insubordination prevalent amongst the staff and considerable arrears of work. These two employees admitted to him that they had been at fault, and R. R. Chanda met Shri Seshan at the dak bungalow and promised that he would do his work faithfully and would not give room for future complaints. He was therefore officially warned, and Shri Seshan recommended that he should not be paid any bonus for 1949. A similar warning was given to G. C. Dey and in his case also his bonus was withheld. On the evidence I have come to the conclusion that these two persons were justifiably deprived of their bonus for 1949 in view of the charges which had been established against them. Ordered accordingly.

(5) *M. U. Mitta* was a probationer at Jalpaiguri branch and his services were terminated before he was made permanent. He claims that the termination of his service was wrongful but there is nothing to support it. He has not given evidence, and as he was a probationer it was open to the management to terminate his services if his work was not satisfactory. No orders are indicated in this case.

I record that the complaints made on behalf of the Employees contained in the letter of the United Commercial Bank Employees' Association of 15th March 1950 have been withdrawn by letter of 27th March 1950. The complaints are therefore dismissed as having been withdrawn.

Shri K. L. Vaid informed the Tribunal that the original claim submitted in his name was a forgery; it was therefore not considered.

As regards the claim of Tikamdas, Issurdas, Deepchand, Menghraj Bhatia and Permanand, dated 17th March 1950, the statement is unsigned in the sense that all the names have been signed by one and the same unknown person. There is a letter from the Bank to the effect that Tikamdas had sent a letter to the Bank dated 3rd May 1950 denying that he had filed or authorised the filing of any such complaint. The complaints contained in the said letter of 17th March 1950 are dismissed.

One other employee, Shri S. S. Rai Chowdhury intimated to the Tribunal that he wished to withdraw his claim against the Bank. The claim is therefore dismissed as withdrawn.

Reference No. 22 of 1950

HABIB BANK LTD.

Mr S. N. Haq, Advocate with Shri R. K. Balgi, Chief Accountant of the Bank appear for the Bank.

Shri S. R. Ganguly, Secretary of Habib Bank Employees Association, Calcutta, appear for the Association.

There are a number of subjects raised by the Employees against this Bank;

(1) The first contention of the Employees is that they have not been given interim relief in accordance with the interim order of the other Banks' Tribunal. Habib Bank Ltd., had been placed in group C by the Bombay Award of June 1949, and was in the list of C group Banks in the Notification of the Government of India of 13th June 1949. The Ministry of Labour, however, decided to amend the Notification by placing Habib Bank in group B instead of group C by its Notification of 6th February 1950. It appears from the interim award of the other Banks' Tribunal that the Employees of Habib Bank had not specifically asked for any interim relief, and therefore the question as to whether they should be in Group B or Group C had not arisen. I was informed at the hearing that the question of the wage structure for the Habib Bank has been raised before the other Banks' Tribunal and will be duly decided. That being so, this complaint does not lie.

(2) There was a complaint by some seventeen persons mentioned in paragraph 3 of the statement of claim dated 11th April 1950 that they had not been confirmed. The Bank has agreed to confirm them, and it is ordered accordingly. They are:

- (1) S. C. Pal
- (2) Abdul Basit
- (3) N. I. Mirdha
- (4) Y. E. Basuri
- (5) S. M. Mazharul Hassan
- (6) N. A. Khan
- (7) M. N. Rahman
- (8) N. K. Roy
- (9) Md. Hedayatullah
- (10) S. K. Bhattacharjee
- (11) S. M. Quadri
- (12) R. J. Smith
- (13) Silto Mia
- (14) Gulam Hussain
- (15) S. K. Zahiruddin
- (16) Jamaluddin
- (17) Jamaluddin Khan

(3) Two employees, R. J. Smith and Waquer Ahmed, alleged that although they had been doing the work of clerks, they had been wrongly classified as peons, and had been receiving the lesser emoluments. It was agreed by the Bank that both R. J. Smith and Waquer Ahmed would be classified as clerks as and from 1st June 1950, and shall be entitled to any increment falling due in 1950.

(4) Silto Mia was a motor driver appointed on 1st October 1947. His starting salary was Rs. 90 and he has received two small increments of Rs. 2 and Re. 1-8-0 in July 1948 and July 1949. He has claimed that he was appointed on Rs. 90 plus the usual allowances. The Bank, however, contends that he was to receive a consolidated salary of Rs. 90, and that that was his

pay. Evidence has been recorded in proof of Silto Mia's contention as to his starting salary, but it was rather inconclusive in character; there is however by way of evidence a comparison with the salaries of similar drivers in other Banks. I have had placed before me a comparative table of what the other drivers are receiving, and upon an analysis of that table it appears that the pay of Rs. 90 inclusive of allowances would not be unduly low for Silto Mia. According to Silto Mia's evidence at the time of his appointment he was told that he would get Rs. 90 a month; he complained at that time that Rs. 90 was insufficient, but was asked to carry on with the work and told that he would be paid what the others in the Bank were getting. He has been receiving Rs. 90 a month plus increments granted to him until he filed the complaint before this Tribunal.

I hold that Silto Mia has failed to prove his case that his salary was Rs. 90 plus allowances, and therefore he is not entitled to the relief claimed. His future salary will no doubt be fixed by the other Banks' Tribunal now considering the wage structure.

(5) Mazharul Hussain, Zahiruddin and Jamal Khan claim that they have not been given increments. It is however obvious that they have not put in sufficient service in accordance with the Rules to enable them to claim increments. They were appointed on 12th February 1949, 8th April 1949 and 20th January 1949, and the Bank has stated they will be receiving their increments next month in the normal course of the Bank's practice. The claim is disallowed.

(6) Shri S. K. Chakraborty was appointed in July 1945 as a clerk on Rs. 75 a month plus dearness allowance Rs. 25. He got an increment of Rs. 8 in 1946, and in July/August 1947 he was promoted as Supervisor and given an increase of Rs. 22; in 1948 he received an increment of Rs. 7 which is the increment of the Supervisor's grade; but in 1949 his increment was reduced to Rs. 5 which is the increment of the clerk's scale. He has proved by his evidence that in 1947 in the duty list he was shown as Supervisor; by a Circular issued about the end of 1948 he was given authority to sign vouchers up to Rs. 5 000 singly, and that was the work of a Supervisor. He has also produced letters which the Bank gave him to submit to Magistrates in connection with certain fraud cases wherein it was stated that he was a Supervisor of the Bank. It is abundantly clear that Shri Chakraborty was a Supervisor at all times relevant to this Reference and is entitled to the Supervisor's scale and grade from June 1949, and it is ordered accordingly.

(7) I am satisfied that Shri S. R. Ganguly and Shri N. K. Roy were likewise working in the capacity of Supervisors although they were called clerks, and they are entitled to the scale and grade of Supervisors, as and from June 1949 under this Reference. Ordered accordingly.

(8) The last complaint relates to the non-payment of insufficient payment of year-closing allowance for 1949. All the members of the staff were asked to attend office for this work for six days which were holidays at the end of the year. It must be presumed that they all attended and did their work, unless it can be shown to the contrary. The method of payment in the past had been haphazard, and this year the amount paid to the whole staff was less than in the previous years. It has been said that the number of ledger accounts had increased from 350 to 450 in 1949, but the Bank urges that business had become less after the partition. Be that as it may, the fact remains that the management required the attendance of the whole staff for six days of holidays, and therefore they must be paid on the basis of overtime according to the rules of the Bank concerning overtime payment, and if such rules do not exist, then at one and half times the pay.

Reference No. 25 of 1950

BANK OF BIHAR LTD

(R. P. Srivastava)

Shri R. S. Bhowmik Officer-in-charge of the Law Department, for the Bank

Shri N. R. Shukla President of the Bank of Bihar Employees Association, Calcutta, for the employees

This is a case of one Shri Ramagyan Prasad Srivastava who was first appointed in 1912 at Siwan branch he continued in Siwan Branch up to 25th April 1919 when he received letter Lx A in full wing terms

"Your services have been transferred to our Mizapur Branch temporarily. Please make over the charge of all the books, papers, vouchers, forms, documents etc. to Shri Jadumandun Prasad Gupta and proceed forthwith to Mizapur and report yourself to Manager there for duties."

On 31st December 1949 the Mizapur Branch was closed and Shri Srivastava was then thrown out of employment. He has now been taken into the Calcutta Branch. The employee was in effect retrenched, he was not given any retrenchment relief, and for some months was without employment before he was posted to the Calcutta Branch.

I direct that the employee Shri Ramagyan Prasad Srivastava shall be deemed to have been in continuous service from 1912 up to now even though his present appointment may be of less monetary value than his previous one. For the period during which he was out of work he will receive the retrenchment relief, namely half month's salary for every completed year of service (salary to include all allowances, bonus and benefits), the earned leave to be carried over.

Reference No. 32 of 1950

BHARAT BANK LTD

Shri Ram Sahai Manager of the Head Office and Shri R. N. Rastogi, Establishment Superintendent, Head Office of the Bank at Delhi, appear for the Bank

Shri M. M. Sen with Shri N. M. Roy, Vice President, appear for the Bharat Bank Employees' Association, Calcutta

Shri N. D. Rajpal in person

There are five issues raised concerning this Bank

- (1) It is alleged that the Bank did not pay increments which fell due in October 1949, January 1950 and April 1950, the Bank contends that its financial condition precludes it from paying these increments
- (2) The closure of the Asansol Branch resulting in the termination of service of the staff of the branch
- (3) It is alleged that one P. C. Sur, Assistant Cashier of the Raniganj Branch was wrongfully dismissed at the instance of the Chief Cashier known in this Bank as the Treasurer. His reinstatement is sought
- (4) It is alleged that one N. N. Roy, a clerk, had been victimised in that he had to make restitution to the extent of Rs. 80
- (5) The case of N. D. Rajpal claiming compensation for termination of service

(1) As regards the first issue as to whether the Bank is entitled to stop the increments which fell due in October 1949, January 1950 and April 1950 on the ground that the insufficiency of the Bank's profits preclude the payment of increments, it is now clear that in order to change the *status quo* the permission of the Tribunal is necessary under Section 33. The Bank has not applied for such permission, but even if it had, we do not apply for the permission, I would not grant it, because the subject of the wage structure is a *matter as presented under adjudication* with the Hon'ble Tribunal and that Tribunal has already passed an order in favour of the Bank on the ground that it is unable to pay increments or to make promotions because of its lack of profits; then it is for the Bank to move the other Banks Tribunal to consider these matters before it moves it a decision on the Bank's wage structure. This Tribunal, therefore, directs that the increments which fell due in October 1949, January 1950 and April 1950 shall be paid to the employees and the employees are entitled to their usual promotions.

(2) This issue relates to the closure of the Asansol Branch. From the papers which the Phurat Bank has filed it would appear that the closure of certain of its branches has become a necessity approved by the Reserve Bank. It is difficult to this Tribunal to sit in judgment as to whether a particular branch should or should not be selected for closing down and it is manifest that the Bank is not likely to close a branch simply to victimise the employees therein. I am concerned here with the Asansol branch. It is said that the closing of the branch was a violation of Section 33 of the Act and also of the undertaking before the Hon'ble Bank Tribunal at Bombay. As regards the undertaking it is dated the 17th February 1950 and gives an assurance in response to the suggestions made by the Hon'ble Tribunal irrespective of the legal position that after the 14th February 1950 during the hearing at present taking place at Bombay it will not without a reference to the Hon'ble Tribunal close any branch, retrench any workman etc. It is common ground that that sitting of that Tribunal came to an end on 2nd April 1950. The Bank withdrew that undertaking by letter of 6th March 1950 on the ground that the employees had staged a walk out and had boycotted the proceedings of the Tribunal. The present value of that undertaking is problematical. The fact remains that the Asansol Branch was closed on 15th March 1950 and the employees have not been absorbed. I doubt if I can take any action under Section 33 of the amended Act as the dismissals took place prior to May 1950 when the amended Act came into force. It is however clear that the persons who have been retrenched are entitled in any event to retrenchment relief, and they shall therefore be paid half month's salary for every completed year of service (salary to include all allowances, bonus and other benefits) and pay for earned leave. They have already received salary for the month of notice. The employees will, of course, get their provident fund and gratuity, if any. The Bank is warned that if they close down any other branches without obtaining previous permission of the Tribunal they will render themselves liable to action under the amended Industrial Disputes Act.

(3) P. C. Sui was Assistant Cashier at Raipur; he was dismissed by a verbal order as and from 1st March 1950. He had been appointed on 1st March 1949 in the cash department of the Asansol Branch and was made permanent after six months. He contributed towards the Provident Fund in the usual course. He was appointed to the Bank under the Cashier who had entered into a guarantee agreement with the Bank (Ex. 1). It would appear that the Cashier was eager to get rid of P. C. Sui. According to the guarantee cashier's letter of 27th March 1950, "In the month of November last, we wanted to dispense with his services by appointing our own man but he called on us and made an earnest request and appealed to us for one month's time,

later on the same thing happened in December last. Finally at the request of your Manager (of the Bank) and the applicant himself we gave him time up till 28th February 1950. We fail to understand as to why he has lodged this complaint when he has already availed of 3 months time." The reason for the removal of P. C. Sur is stated by the guarantee cashier in the following terms: "The appointment of the said gentleman was of purely temporary nature in view of the fact that he was not our man, at the representation of the said gentleman and on recommendation of your goodself (Manager, Bharat Bank) we gave him chance when we took up the charge of your cash department. You would no doubt appreciate that the Cashier should be men of our confidence in view of the risks and responsibilities involved therein".

The significance of this letter lies in the emphasis placed upon the words "not our man" and the confidence which P. C. Sur is supposed to have forfeited. Although the confidence was supposed to have been lost in November 1949 P. C. Sur was allowed to continue till the 1st of March 1950.

The Cashier's agreement has been filed. It provides that the employees in the Cash Department "shall be fixed" with the approval of the Bank and paid by the Bank. The Bank had the power to decrease or increase the number of assistants and clerks and the amount of remuneration according to the increase or decrease of work at the branch. The Cashier was not to engage any person about whose character, conduct or reliability the Manager or the Board of Directors had any objection; and if any employee was removed on the objection of the Board or the Manager, the Cashier was to appoint a substitute.

This agreement follows the usual line of similar guarantee cashier agreements to which reference has been made in this Award in connection with the Central Bank's case (Reference No. 2 of 1950). I have therein stated as my opinion that the requirements of natural justice would not be satisfied in the case of Cash Department employees unless three principles stated by me were recognised and observed. These three principles are equally applicable to the case of P. C. Sur. P. C. Sur's is a bad case where there had been an open exercise of arbitrary power to dismiss. Applying the principles which I have stated I direct the Bank to pay to P. C. Sur one month's emolument for every year of service with a minimum of four months' emoluments (emoluments shall include all allowances privileges and benefits like bonus gratuity and provident fund). P. C. Sur will also be entitled to all pay for earned leave.

(4) By consent of parties it is agreed that the restitution of Rs. 80 will be reduced by Rs. 40 that is, the Bank agrees to refund Rs. 40 to N. N. Roy. Ordered accordingly in settlement of this issue.

(5) This issue relates to the case of Sri N. D. Rajpal. He was admittedly an officer of the Bank—Assistant Manager in the Lyon's Range Branch Office in Calcutta—on a total remuneration of Rs. 685 a month, and he was given a power of attorney of the second class. His services were terminated, and he has made complaints to this Tribunal for reliefs on the ground that he was wrongfully dismissed. At the instance of Sri Rajpal I have recorded evidence in proof of his contention that he was a "workman" within the meaning of the Industrial Disputes Act. I am afraid I cannot by any stretch of the imagination regard him as a "workman"; he was an officer of the Bank holding a high position, and his work was certainly not "mainly clerical". The reasons which I have stated in the case of Shri G. B. Sen Gupta (Reference No. 21 of 1950—United Commercial Bank Ltd.) *in far* apply equally to this case.

Although the facts have disclosed *prima facie* that Shri N. D. Rajpal was dealt with by the Bank abruptly and with less than justice, I am afraid I have no jurisdiction to consider his complaint, which is therefore dismissed.

Reference No. 38 of 1950

THE CALCUTTA NATIONAL BANK LTD.

Shri Prasun Ghosh, Counsel, for the Bank.

Shri Sailosh Mukherjee, Counsel, for Shri Tripti Kumar Chatterjee.

By the terms of his Agreement dated 10th December 1945 (Ex. A), the employee Shri Tripti Kumar Chatterjee was entitled to one calendar month's notice of termination of service. He was the Assistant Cashier of Kalighat Branch at Calcutta, which branch was later amalgamated with the Bhawanipore Branch. In consequence of such amalgamation five employees of Kalighat Branch were deprived of their appointments. Three of them were absorbed in the other Branches, and one resigned after appointment to another post. The fifth, the applicant, was given a notice of termination of service which is Ex. B. It is alleged by the Bank that they offered him alternative employment in the Nagpur Branch but that he refused it; this is denied by the employee.

It is clear that the notice Ex. B is not a valid notice in terms of the agreement. It is dated 6th February 1950 and gives notice of termination from that day and therefore cannot be regarded as a calendar month's notice. The effect is that the employee would be considered to be still in the service of the Bank and entitled to all pay, but for an intervening circumstance: on 24th March 1950 the employee applied for and obtained the payment of Rs. 2,000 which was his security deposit under the Agreement and he also took the interest thereon, and in the circumstances he must be deemed to have accepted the termination of his services. He is therefore entitled to salary, allowances and all other benefits from the 1st February 1950 upto the date on which he withdrew his security, which is 24th March, 1950. As there is no sufficient evidence that he was offered alternative work at Nagpur, I allow him retrenchment relief at the rate of half month's salary for every completed year of service, salary to include all allowances and benefits and pay for earned leave, as also bonus gratuity and provident fund, if any.

Reference No. 41 of 1950

HIND BANK LTD.

Shri S. K. Ghose of Charu Chandra Bosu, Solicitors, for the Bank.

Shri S. M. Mitra and Shri Chowdhury representing the Hind Bank Employees' Union, Calcutta.

This case relates to 13 employees who claim that they have not received increments: the Bank states that it has two scales in force *viz.*, Rs. 60—5—90—7½—120 which is the lower grade, and Rs. 130—7½—160 which is the Higher grade.

(1) The first eight employees, *viz.*,

Benoy Krishna Sen	Head Office
Monoranjan Mukherjee	Do.
Bhola Nath Dey	Do.
Satyesh Ranjan Sen	Do.
Harendra Nath Gupta	Do.
Anil Chandra Guha	Do.
Santosh Kumar Singha	Shanabazar branch,

have reached the maximum of their lower grade, and the Bank states that there are no vacancies in the upper grade. The employees contend that although

these 8 employees have reached the maximum of the lower scale, I should proceed to fix for them increments beyond the scale. I do not propose to do so as the other Banks' Tribunal will be fixing the wage structure. I am prepared to consider whether there has been any breach of the existing wage structure in the payment of increments, and no such breach is indicated. The claim of the first eight employees is dismissed.

(2) As regards the two Sepoys—

Shri Krishna Singh (Jamedar)

Shri Ram Shanker Misra (Jamedar)

they have not been given any scales and therefore I am unable to decide what their increments were or should be. Their scales of pay will be fixed by the other Banks' Tribunal. One of the Sepoys gets Rs. 63, and the other Rs. 55 as basic pay, to which must be added Rs. 25 dearness allowance. I am not prepared to say that this is *prima facie* low. No orders are indicated in their cases.

(3) *Claims of Uttam Ram Nagar and Ram Nagar.*—The Bank states that these two persons are not in the higher grade but in some indeterminate grade which the Bank has fixed. The fact remains that the Bank has two main grades as already stated, and these two persons would normally fall in the higher grade unless there is some special arrangement regarding them which is not disclosed here. I therefore direct that Shri Uttam Ram Nagar shall receive the maximum of Rs. 160 in the higher grade from the date on which the last increment was stopped; and as regards Ram Nagar, he will receive the increment of Rs. 7/8/- from the date on which the increment was stopped and in the next year an increment of Rs. 2/8/- to make up the maximum of Rs. 160. In the case of these two persons also it is evident that their wage structure will depend upon the conclusions of the other Banks' Tribunal.

(4) *Gokal Nath Dubey.*—This employee has already reached the maximum in the upper grade, *viz.*, Rs. 160 and therefore no orders are indicated.

Reference No. 45 of 1950

INDIAN OVERSEAS BANK LTD.

Shri L. Lakshminan, Manager of the Calcutta Branch appears for the Bank.

No appearance on behalf of the employees of the Bank.

The employees have raised their claim by their letter of the 24th March 1950. They say that in view of the high cost of living their remuneration should be enhanced. This is not a matter within the jurisdiction of this Tribunal and the claim is therefore dismissed.

Reference No. 47 of 1950

LAXMI BANK LTD.

Shri A. T. Sinha for the Bank.

Shri M. B. Balwaker in person.

There is one claimant against this Bank; he is M. B. Balwaker. He claims Rs. 80 as salary for the month of September 1949; Rs. 80 one month's salary with dearness allowance in lieu of notice; Rs. 28 as inter-class travelling allowance of his wife when he was transferred from Bombay to Akola, and Rs. 480 as temporary transfer allowance of Rs. 5 a day from the 4th July to 8th October, 1949 *i.e.* 96 days.

Balwaker belongs to Khamgaon near Akola in Berar; he joined the Bank on 1st May 1946; his first posting was to the Shegaon branch and he was there

till 15th August 1947 when he was transferred to Amraoti Branch (Berar) on the same salary; he was in Amraoti till 27th August 1948 when he was transferred to Bombay and given the salary of a new employee; i.e., Rs. 55 plus Rs. 25, on 4th July 1949 he was transferred to the Head Office at Akola, and thereafter in about a month's time he was told to go to Calcutta. The transfer order is dated 5th August and he was due to join on 9th August. He pleaded illness, and during the course of his alleged illness he proceeded to Bombay to his brother's house and while there he received letter of the Bank dated 8th October 1949 terminating his services with effect from 1st September 1949. Obviously such retrospective termination of service can have no validity. While in Bombay he applied to the Central Bank of India for appointment, and on the 27th October he joined the service of the Central Bank in Calcutta.

I have no doubt that when this employee applied for sick leave on receiving the order to proceed to Calcutta, he had no intention of proceeding to Calcutta in accordance with the transfer order. I am satisfied that his illness, even if it had any foundation at the commencement, was merely an excuse at the later stages for not proceeding to Calcutta, and ordinarily this employee would not be entitled to any consideration. There is, however, the admitted fact that this employee, on a salary of Rs. 55 plus Rs. 25 allowance, had been shifted within the previous two years from Shagaor to Amraoti, then to Bombay and then back to Akola and he was then ordered to go to Calcutta. Such frequent transfers of a junior clerk impose upon him an intolerable burden, and the Bank itself is to blame for what followed. Be that as it may, the notice of termination dated 8th October 1949 terminating the services of the employee with effect from 1st September 1949 is obviously bad; but the employee ultimately broke away from the Bank on the 13th October 1949 when he received his staff security deposit.

I direct that the Bank shall pay any balance of salary, allowances, earned leave pay, bonus, gratuity etc. for the period ending 13th October 1949. Considering the circumstances it is just that the employee should also be paid Rs. 23 as inter-class travelling allowance of his wife when he was transferred from Bombay to Akola. The employee is entitled to nothing else, and the claim for temporary transfer allowance has no foundation at all.

Reference No. 75 of 1950

BENGAL BANK LTD.

Shri Sailaja Charan Misra in person.

No appearance on behalf of the Bank

In this case Sailaja Charan Misra who was an Accountant of the Contai Branch has asked for reinstatement or compensation on the ground that his services had been wrongfully terminated.

The Bank by its letter of 23rd May 1950 has stated that an application had been made under Section 153 of the Companies Act and that N. K. Dey had been appointed Special Officer for the Bank, with powers of a Receiver. The Bank was maintaining its *status quo* under control of the Special Officer and under directions from the Court. With its written statement the Bank has produced a copy of the order of the High Court wherein the Special Officer has received directions that he was at liberty to reduce the staff with the consent of the Board of Directors and to discharge such employees by paying one month's salary in lieu of notice. It is therefore, clear that S. C. Misra is not in a position to challenge the right of the Bank to terminate his services. S. C. Misra, however, contends that the ordinary principle of "last come, first go" has not been applied in the matter of his retrenchment. He states that he is senior to others who have been retained by the Bank, and that fact is tacitly admitted

in the Bank's written statement. The Bank, however, has alleged in its written statement that S. C. Misra had been guilty of improper practices; but I cannot attach any value to such allegations as the Bank has failed to appear at the hearing although notice had issued. S. C. Misra has denied all these allegations and has produced before me Ex. A which is a letter given to him by the Agent of the Contai Branch on 2nd January 1948 when he was applying elsewhere for a better appointment. In that letter the Agent said that S. C. Misra was a young man, energetic, intelligent and trustworthy with a good moral character; that he could independently close the books of accounts and could safely be entrusted with any responsible work that required a man of sound education and administrative ability. As the Bank has not shown any satisfactory reason as to why this employee with such a good record has been retrenched in preference to his juniors, I hold that in terminating S. C. Misra's services the Bank has acted improperly and there has been a failure of natural justice. In the present circumstances of the Bank I do not wish to order S. C. Misra's reinstatement, but I do allow him as compensation four months' total emoluments (emoluments to include all allowances, privilege and benefits like bonus, gratuity and provident fund) plus pay for earned leave.

I have directed the Bank to pay S. C. Misra his travelling allowances for appearing before this Tribunal from Contai.

NOW, THEREFORE, THIS TRIBUNAL MAKES ITS AWARD IN TERMS AFORESAID, THIS THE 11TH DAY OF JULY, 1950.

F. JEEJEEBUOY,
Chairman,

Central Government Industrial Tribunal, Calcutta.
[LR-90(40).]

New Delhi, the 2nd August 1950

S. R. O. 378.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (XIV 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes) in the matter of an industrial dispute regarding scales of pay, dearness allowance etc., between certain banking companies in Baroda and their employees.

**BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES),
BOMBAY**

ADJUDICATION

BETWEEN

1. The Bank of Baroda, Limited,
2. The Punjab National Bank, Limited,
3. The United Commercial Bank, Limited,
4. The Devkaran Nanji Banking Company, Limited and
5. The National Savings Bank, Limited,

AND

Their Workmen.

In the matter of an industrial dispute regarding scales of pay, dearness allowance, etc.

Appearances:

1. Shri B. K. Daphtary of Messrs. Daphtary Ferreira Diwan Solicitors for the Bank of Baroda, Limited.
2. Shri B. N. Singh, Advocate, for the Punjab National Bank, Limited.
3. Shri D. B. Tilak, Advocate. (for Shri Tanubhai Desai) for
The United Commercial Bank, Limited,

The Devkaran Nanji Banking Company, Limited, and
The National Savings Bank, Limited.

Shri Chandrakant T. Sheth, General Secretary, Vadodra Rajya Bank
Nokar Sangh, Baroda, for the employees.

AWARD

This reference was made by the Central Government by Order No. LR-2(249) dated the 5th January 1950. This is a dispute between five banks *viz.*,

- (1) the Bank of Baroda, Limited,
- (2) the Punjab National Bank, Limited,
- (3) the United Commercial Bank, Limited,
- (4) the Devkaran Nanji Banking Company, Limited,
- (5) the National Savings Bank, Limited,

and their employees. The heads of dispute are set out in Schedule II to the Order referred to above under 17 heads. The representatives of the banks and the Vadodra Rajya Nokar Sangh which is the only union of the employees concerned have agreed that so far as the common issues or heads of disputes in this reference and in the reference made by the Central Government in their Order No. LR-2(212) dated the 13th June 1949 are concerned the parties would be bound by the award resulting from the earlier reference. The only heads of dispute which are not covered by the issues to be found in Schedule II to the Order of the 13th June 1949 are No. 6—uniforms for lower paid staff and No. 14—provision of canteens and tiffin rooms at the cost of the bank.

As to the first of these issues the Sangh has made the following demand, that the members of lower paid staff should be supplied with 3 sets of uniforms every year, each set of such uniforms to include such articles as are being supplied to the members of the lower paid staff according to the prevailing practice, in addition to one umbrella per year. We are of opinion, as expressed by us in our award relating to the reference of certain disputes pending in the Industrial Court at Bombay and transferred to this Tribunal, that an umbrella should be provided once in two years for only such of the employees of the subordinate staff as have to do outdoor work, provided that if within such period the umbrella becomes unserviceable a new umbrella should be provided. As regards the other items we would apply our decision in the award referred to and we direct as follows: each member of the subordinate staff should be supplied with at least two sets of uniforms (consisting of 1 coat or *dagla*, one pair of trousers and one headwear) every year, provided that if any of those sets or articles becomes unserviceable within the year it should be replaced by a new set or article.

As regards the demand for canteens and tiffin rooms, Shri Chandrakant Sheth has stated that the Bank of Baroda has provided a canteen at its head office at Baroda and he has asked for the provision of similar canteens in all the branches or at any rate the provision of a room and some furniture at each branch. Shri Daphary on behalf of the said bank has stated that certain branches have only 2, 3 or 4 clerks and that the employees where no canteen is provided, go home for lunch. Outside Baroda the bank has 25 clerks and 10 peons, at its Navsari branch but at other places the total number of employees at any place is less than 25. Shri Singh of the Punjab National Bank states that his bank has one branch at Baroda where there is no room available, and Shri Tilak on behalf of the United Commercial Bank and Devkaran Nanji Bank as stated that in none of the branches of the banks which he represents are there more than 12 employees, except that at one branch the United Commercial Bank has 15 clerks. We direct that where a canteen exists it should continue and that elsewhere where a branch has 25 employees or more, including the subordinate staff, the bank shall provide a room with the

necessary furniture to the employees where they can have lunch during the mid-day recess. We do not think any other directions are necessary.

As regards the other demands we direct that the provisions of our main award in the dispute referred to us by the Central Government on the 18th June 1949, so far as they relate to such demands, shall apply.

K. C. SEN, *Chairman*.

J. N. MAJUMDAR, *Member*.

N. CHANDRASEKHARA AYYAR, *Member*
[L.R.-2(248)]

BOMBAY,

7th July, 1950.

S.R.O. 379.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes) in the matter of alleged stoppage of increment, victimisation etc., in the State of Madras.

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES),
BOMBAY

ADJUDICATION

BETWEEN

The Indian Overseas Bank, Ltd., Madras

AND

Its workmen

In the matter of alleged stoppage of increment, victimisation etc., in the State of Madras.

APPEARANCES

Shri V. C. Gopalratnam and Shri L. V. Krishnaswami for the bank.

Shri T. S. Ramanujam and Shri Anthony Pillai for the employees.

AWARD

The Indian Overseas Bank Employees' Union, Madras made an application dated the 16th February 1950, in which they called the attention of the Tribunal to the demand No. 18 in their statement of claims alleging that the bank had withheld increment falling due in April 1949 in the case of 82 employees of the bank. The Union in that application requested that the matter might be heard at either Madras or Bombay. The matter was fixed for hearing at Madras on the 3rd March 1950.

At the time of hearing Shri V. C. Gopalratnam appearing for the bank agreed to pay the withheld increments to 12 peons and 17 clerks. The Tribunal did not hence feel it necessary to go into the rights and contentions on either side on the question whether the increments were properly or improperly withheld and whether the withholding of increments could be treated as victimization within the meaning of the Industrial Disputes Act 1947. The Tribunal also did not consider the question of competence of a bank to withhold increments for disloyal and subversive activities by the employees. We direct the bank to pay increments due to the 29 employees as agreed together with all arrears within two months of the publication of this award, if they have not been paid so far as agreed.

As regard the stoppage of increments in the case of three employees, viz., (1) S. F. Sathappan, (2) B. Ongarvelu and (3) J. M. James (Nos. 7, 15 and 30 in the list furnished by the Union in its application) the bank alleged in its written statement to the following effect. Of the 32 members named by the Union two members, viz., (1) S. P. Sathappan and (2) J. M. James were not

eligible for increment having put in less than six months' service at the time the annual increments were due for consideration and one member, *viz.*, B. Ongarvelu, was drawing a higher salary than that for which he was eligible owing to a misleading statement made by him at the time of his appointment regarding his educational qualifications on which the starting salary was based and he was, as a matter of grace, allowed to mark time until in the ordinary course he became eligible for the salary he was actually drawing. Shri Anthony Pillai who appeared for the employees admitted the correctness of the statement made by the bank in regard to these three employees. In these circumstances we feel that we need make no order in these three cases.

Shri Ramanujam and Shri Anthony Pillai urged another case of victimization stating that an employee called Krishna Pillai, clerk in the bank, was discharged from service on the 10th February 1950 and that the discharge was tantamount to a contravention of the agreement reached in Bombay. Shri L. V. Krishnaswami on behalf of the bank urged that the discharged was on the 7th February and not on the 10th.

Whichever date is the correct one, the Tribunal has no jurisdiction to go into the question. We have consistently held that disputes arising after the date of the original notification, *viz.*, the 18th June 1949, are outside our reach. The complaint as well as the answer were made orally.

We do not in the circumstances give any directions in this case.

K. C. SEN, *Chairman*.

J. N. MAJUMDAR, *Member*.

N. CHANDRASEKHARA AYYAR, *Member*.

[No. LR-2(251)]

BOMBAY,

7th July, 1950.

New Delhi, the 5th August 1950

S.R.O. 380.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947) the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes) in an industrial dispute between the National Bank of India Limited, Bombay, and its employees regarding the pension rules of the Bank.

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES),

BOMBAY

ADJUDICATION

BETWEEN

The National Bank of India Limited, Bombay

AND

Its workmen

In the matter of an application by the Employees of the National Bank of India, Ltd., regarding the pension rules of the bank.

APPEARANCES

Mr. C. H. Martin of Messrs. Little & Co., Solicitors for the Bank.

Shri S. B. De Silva, Advocate for the National Bank of India Ltd.,
(Bombay branch) Clerks' Union.

AWARD

This application was made on the 23rd March 1950 and contained the following allegations. The bank has a pension scheme which until 1920 was based on a contributory fund. In 1920 the bank refunded all contributions made by the employees and a new set of rules were made regarding pensions. Under those rules service for 25 years was the pensionable service, the amount of pension was calculated at 1/50th for every year's service with a maximum of 2/3rds of pay and invalid pension was allowable on retirement after 20 years' service. Those rules were altered in 1939 and it was provided that the pensionable service was to be raised up to 30 years and 55 years of age, that the pension was to be on the basis of 1/60th of the average substantive salary for the last five years of service and that invalid pension was allowable on retirement after 25 years' service. The rule that the maximum pension was 2/3rds of the average of substantive salary was replaced by a rule laying down a maximum pension of Rs. 200 per month.

The Union claims that the new pension rules of 1939 were detrimental to their interest and that they should be replaced by 1920 rules. The bank has pointed out that no trust has been created in respect of the pension fund, the bank being the owner of the fund, that the present rule extending the pensionable service to 30 years is not prejudicial to the employees, as hardly any of them wishes to retire after only 25 years of service and that in a settlement that was arrived at in August 1946 after a strike the employees accepted the decision of the bank not to restore their pension rules of 1920. It further relies on the fact that in a suit filed in the High Court of Bombay in 1945 by a certain ex-clerk who had retired on pension on medical grounds, the plaintiff whose pension had been calculated under the 1939 rules had claimed that he was entitled to pension under the 1920 rules but that the suit was allowed by the plaintiff to be dismissed. According to the bank this showed that the action of the bank in making the new rules could not be successfully challenged.

It has, in the first place, to be noted that the dispute is as old as 1939 and our practice has been not to entertain disputes which arose at a date earlier than the 1st January 1947. We have, however, gone into the merits of this case because it affects a large number of employees. But we are satisfied that on the merits there is no reason for us to interfere. The employees could have got the dispute referred to Mr. Justice Divatia when he was hearing the dispute between a large number of banks in Bombay and their employees, but they did not choose to bring their dispute before him and they have taken no further action till as late as 1950, except when an ex-employee took his case to the High Court. The manner in which that person allowed his suit to be dismissed also *prima facie* indicates that there was no merit in his suit. Lastly, as to the agreement arrived at in August 1946 Shri D'Silva on behalf of the employees has said that the statement of the terms of the said settlement submitted by the bank as annexure "B" to its written statement dated the 31st October 1949 does not represent correctly the terms of the settlement. Shri D'Silva, however, admits that he became aware of the terms to be found in the said annexure and Mr. Martin on behalf of the bank has said that those terms were published by being affixed to the main door of the bank. Shri D'Silva has not been able to show that any letter or representation was addressed by his Union to the bank after such publication protesting against any of the terms contained therein or alleging that what was published did not represent actually the terms of settlement. It is admitted that about the date which appears at the bottom of the said annexure "B", *viz.*, 7th August 1946, the strike came to an end. In these circumstances, it is difficult to hold that the bank is not correct in saying that the terms recorded in annexure "B" represent the actual terms of the settlement arrived at. In clauses 3, 4 and 5 of

the said settlement it is stated, "The rules governing the Pension and Provident Funds are fixed by Directors or Trustees and apply to all members of the Bank's Staff. There is no justification for alteration in the existing Rules". This clearly shows that the employees accepted the existing pension rules at the time of the settlement. We see no reason for giving any directions on the present application.

K. C. SEN, *Chairman.*

J. N. MAJUMDAR, *Member.*

N. CHANDRASEKHARA AIYAR, *Member.*

BOMBAY

7th July, 1950

[No. LR-90(41)]

New Delhi, the 5th August 1950

S.E.O. 381.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes), in the matter of a dispute regarding pay, dearness allowance etc., between certain banking companies in Calcutta and their employees.

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DIS-
PUTES), BOMBAY.

ADJUDICATION.

BETWEEN

1. Chartered Bank of India, Australia & China, Calcutta,
2. Eastern Bank, Limited, Calcutta,
3. Grindlay & Co., Limited, Calcutta,
4. Hongkong & Shanghai Banking Corporation, Calcutta,
5. Lloyds Bank, Limited, Calcutta,
6. Mercantile Bank of India, Limited, Calcutta,
7. National Bank of India, Limited, Calcutta,
8. Nederlandish Indisch Handelsbank Co., Limited, Calcutta,

AND

Their workmen

In the matter of a dispute regarding pay, dearness allowance, provident fund, etc.

APPEARANCES

Shri S. K. Mullick of Messrs. Sandersons & Morgans, Solicitors, for
(1) Mercantile Bank of India, (2) Hongkong & Shanghai Banking
Corporation, (3) National Bank of India and (4) Grindlays Bank.

Shri S. K. Mullick of Messrs. Sandersons & Morgans Solicitors (at Calcutta) and Mr. A. C. Beynon instructed by Shri V. A. DaSilva of Messrs. Cragio, Blunt & Caroe (at Bombay) for the Chartered Bank of India, Australia & China

Mr. Hornby of Messrs. Orr Dignam & Co. Solicitors, for the Lloyds Bank, Limited, and the Eastern Bank, Limited.

Shri D. C. Sarkar and Shri J. K. Dutt for the Hongkong & Shanghai Banking Corporation Indian Staff Union.

Shri Niron De and Shri N. V. Phadke with Shri G. N. Bannerji for the Chartered Bank of India, Australia & China Employees' Union.

Shri M. Bhattacharjee for the National Bank of India Employees' Union, Calcutta.

Shri Pravat Kar for the Lloyds Bank Indian Staff Association.

AWARD

Some disputes, originally referred to the Tribunal appointed by an order of the West Bengal Government on the 17th January 1948, were referred to this Tribunal for adjudication by the Labour Ministry's Orders No. LR-2(239), dated the 26th October 1949 and 6th December 1949. In these disputes the banks concerned were:—

1. Chartered Bank of India, Australia & China,
2. Eastern Bank, Limited,
3. Grindlay & Co., Limited,
4. Hongkong & Shanghai Banking Corporation,
5. Lloyds Bank, Limited,
6. Mercantile Bank of India, Limited,
7. National Bank of India, Limited,
8. Nederlandish Indisch Handelsbank Co. Limited,

The Tribunal to which these disputes were originally referred will be called hereafter by its popular name Mercantile Tribunal.

Various demands were made against these banks by the Bengal Provincial Bank Employees' Association, most of which are covered by the issues mentioned in Schedule II of the Order dated the 13th June 1949, appointing this Tribunal which we shall refer to as General Issues. The banks and their employees have agreed that it would not be necessary to make a separate award in respect of such issues and that they will be bound by our award on those issues under the reference made by Order No. LR-2(212), dated the 13th June 1949. The only demands which are not covered by those issues are, therefore, considered in this award and they are in respect of the Issue Nos. 5, 15 and 19(3) (a), 19(3) (c) and 19(3) (d) as framed by the Mercantile Tribunal.

Issue No. 5 relates to canteen and tiffin, Issue No. 15 to uniforms and umbrellas for menials in which all the banks and their employees are interested. Issue No. 19(3) (a), in which only the Chartered Bank of India, Australia and China and their employees are interested, relates to bonus for the years 1944 to 1946. Issue No. 19(3) (c) relates to the question whether widows and orphans of ex-Indian employees should receive the same benefits as are received by those of the ex-European employees. Issue No. 19(3) (d), in which only the Chartered Bank of India, Australia and China and their employees are interested, relates to provisions for a library and club-room and an annual grant therefor.

As to Issue No. 5, *viz.*, canteen and tiffin, Shri J. K. Dutt, appearing for the Hongkong and Shanghai Banking Corporation Employees, demands accommodation and cooking materials, *viz.*, a stove and utensils and if they are not available, charcoal and a cook and an allowance of Rs. 2/- per diem

for each employee above the clerical grade and Re. 1/- for clerical grade employees and As. -/8/- for subordinates. Shri Banerjee, appearing for the Chartered Bank of India, Australia & China employees does not claim any special room or utensils but claims a diem allowance in the same manner as the employees of the Hongkong and Shanghai Banking Corporation. Shri Bhattacharjee for the employees of the National Bank of India also does not claim any accommodation but claims an allowance. Shri Pravat Kar, appearing for the Staff Association of Lloyds Bank, wants bigger accommodation and utensils and "other facilities" as also an allowance, but he has not given particulars of the "other facilities" demanded. Having regard to the different claims put forward by the employees of the different banks, we think that it is not necessary to give special directions in each case but we should give one direction, viz., that where a canteen exists it should continue and that elsewhere, where the head office or branch has 25 employees or more including the subordinate staff, the bank shall provide a room with necessary furniture where the employees may have their lunch. Beyond this we are not prepared to give any other direction.

As to Issue No. 15, which relates to uniforms and umbrellas, the demand is for one winter uniform in two years and two summer uniforms annually and expenses for their cleaning and one umbrella each year. Shri Mullick, appearing on behalf of the banks, stated that the expenses for cleaning are paid and that uniforms and umbrellas are given by the bank as and when required. We shall deal with the expenses for washing charges in our main award and, therefore, we do not propose to deal with it here. We consider the demand for uniforms to be moderate and we, therefore, direct that uniforms as demanded shall be supplied to the staff and that if they become unserviceable during the period they are intended for they shall be replaced. We do not approve of the rule for the supply of umbrellas to the employees as and when required. It may so happen that only those who are insistent on their demand are supplied with the umbrellas but that those that are not so forward or are not conscious of their right to demand them suffer from inconveniences. We, therefore, direct that those members of the staff who have to do outdoor work shall be supplied with an umbrella each once in two years, but that if it becomes unserviceable during such period a new umbrella shall be supplied.

Issue No. 19(3) (a) relates to the bonus for the years 1944 to 1946 and the dispute concerning it is between the Chartered Bank of India, Australia and China and its employees. For the workmen it is contended that bonus has been paid by the bank at 10 per cent. of a year's basic wages for the years 1942, 1943, 1947 and 1948; and in Bombay Divatia J. awarded bonus for 1946 at the rate of one month's basic wages by an award dated the 19th December 1947. The bank stated in those proceedings that after 1943 bonus had been discontinued as in the later years of the war a number of its branches had fallen into the enemy's hands and there had been losses the extent of which had not been ascertained. Mr. Beynon on behalf of the bank has contended that as the Tribunal has not been giving relief claimed in respect of periods earlier than 1947 the demands for 1944 and 1945 at least should not be granted, the accounts for these years having been closed. It is also denied that any bonus was paid in the years prior to 1944 except 1941 when a 10 per cent. bonus was paid. As against this Shri Phadke has pointed out that on the 28th December 1944 a special bonus of 10 per cent. was paid to the European Officers and that on the 4th February 1946 a special cost of living allowance at the rate of 10 per cent. of the annual salaries drawn in 1945 was given to the same officers.

With regard to the years 1944 and 1945 the following facts appear to be relevant. No demand in respect of these years was made before Divatia J. and

it seems that none was made prior to the appointment of the "Mercantile Tribunal" at Calcutta; and a point regarding the Tribunal's jurisdiction with regard to the demands for those years appears to have been expressly raised by the bank in its supplementary written statement. This seems to be confirmed by a communication dated the 6th/8th December 1947 addressed by the employees' Union at Calcutta to the Bank. That communication contained a copy of a resolution passed by its committee of Management on the 28th November 1947. The said resolution contained a large number of demands regarding scales of pay, adjustment, existing "irregularities", dearness allowance, leave rules, provident fund, etc. Then followed certain matters like recognition of the union, registration of the provident fund, bonus, tiffin allowance, etc., about which it was stated that they "should also be considered". One of those items was, "Immediate payment of bonus or allowance as received by the Imperial Bank of India (25 per cent.) or the National Bank of India Limited. (20 per cent of the salary) since July, 1946". Besides, the bank's contention that in the closing year of the war it suffered losses owing to a number of its branches falling into the enemy's hands has not been controverted. During 1941 to 1945 the bank could not pay a dividend greater than 5 per cent., whereas in previous years it had been between 10 per cent. to 20½ per cent. Apart, therefore, from the question of jurisdiction and the practice of this Tribunal with regard to claims arising long ago, it does not appear to us that it can be said that the employees have established their claim for bonus in respect of the years 1944 and 1945. It is to be noted that in those two years the dearness allowance, which was 20 per cent. of the salary with a minimum of Rs. 10/- or Rs. 15/- in 1943, was raised to 30 per cent. of the salary with a minimum of Rs. 22/8/-. As regards 1946, Divatia J went into the question of the bank's global accounts and from the balance sheets found it established that a bonus equivalent to one month's basic wages could be legitimately claimed in respect of that year. For that year several Indian banks gave very handsome bonus, none (except the Hindustan Commercial Bank) giving less than two months' salary.

We direct that for 1946 a bonus at the rate of one month's basic pay shall be paid by the bank in respect of its branches in West Bengal subject to the following conditions.

(1) The total bonus due shall be paid in one or two instalments within 2 months from the publication of this award.

(2) It shall also be paid to persons who worked in 1946 though they may no longer be in the service of the bank provided that they submit their claims in writing within three months of the publication of the award, whereupon the total amount due to such a person shall be paid within two months of such application.

(3) If a person has not worked throughout the period in respect of which the bonus is directed to be paid, the amount payable to him shall bear the same proportion to the full bonus as the number of days he has worked bear to the total number of working days in the year.

(4) In the case of women who have been on maternity leave during the period, the actual maternity allowance drawn by them shall be included in their earning for the purposes of calculating bonus paid.

We now take up the issues No. 19(3) (c) and 19(3) (d) which concern only the Chartered Bank of India, Australia and China and their employees. (1) As to issue 19(3) (c) the bank's objections are —The employees are not entitled to press this demand because the Mercantile Tribunal called upon them to

prove that there was a dispute regarding this issue before May 1948 and the employees failed to do so, so that it must be held that there is no dispute in existence on this issue; it is not at all an industrial dispute in as much as it amounts to a claim for compensation to the widows and orphans of deceased employees, which is not covered by the definition; the fund out of which the widows and orphans of the ex-European employees are paid is in England and the rules and regulations are in England meant for the English Officers of the Bank's English office. The conditions of service of the employees here do not entitle them to make this demand.

Shri Banerjee, appearing on behalf of the employees, has not controverted this point. He has not made it clear whether the benefits to the widows and orphans of the ex-Indian employees should come out of the existing fund which is in England or that a new fund should be created on the lines of the existing fund for the benefit of widows and orphans of the ex-Indian employees. We are not inclined to direct the payment of the benefits claimed out of the existing fund, but if the employees desire to have a new fund on the same lines as are meant for the English officers of the English Banks, we would recommend the proposal to the bank for its sympathetic consideration.

Issue No. 19(3) (d) is for a library, a club room and an annual grant therefor. Shri Banerjee states that a library is necessary because the employees of banks sometimes appear at the banking examinations and for that purpose they require books and they can utilise their leisure time by reading books. His case is that the National Bank of India has got a club and a library and so the employees of this bank also must have one. Shri Mullick, on behalf of the bank states that this demand had not been made anywhere, but that when the issue were framed by the Tribunal it was wrongly stated by the employees that the demand was in their statement of claims and that on that footing the issue was framed. This appears to be correct. We do not think that there are sufficient grounds to justify the demand and as such we do not make any order.

With regard to the other demands, which we have already mentioned are covered by the general issues, the provisions of our award in the dispute referred to us by the order of the 13th June, 1949, so far as they relate to such demands, will apply.

K. C. SEN, *Chairman.*

J. N. MAJUMDAR, *Member.*

N. CHANDRASEKHARA Aiyar, *Member.*

BOMBAY

7th July, 1950.

[LR-90(37) II.]

N. M. PATNAIK, Dy. Secy.

New Delhi, the 4th August 1950

S.R.O. 382.—The following draft of a further amendment to the Indian Coal Mines Regulations, 1926, which it is proposed to make in exercise of the powers conferred by section 29 of the Indian Mines Act, 1923 (IV of 1923), is published, as required by sub-section (1) of section 31 of the said Act, for the intimation

of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 4th November, 1950.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

Draft Amendment

For sub-regulation (2) of regulation 1 of the said Regulations, the following sub-regulation shall be substituted, namely —

“(2) They extend to the whole of India except Part B States.”

[Mines 41 (7)50(1)]

S.R.O. 383.—The following draft of a further amendment to the Indian Metalliferous Mines Regulations, 1926, which it is proposed to make in exercise of the powers conferred by section 29 of the Indian Mines Act, 1923 (IV of 1923), is published, as required by sub section (1) of section 31 of the said Act, for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 4th November, 1950.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

Draft Amendment

For sub regulation (2) of regulation 1, of the said regulations the following sub-regulation shall be substituted, namely:—

“(2) They extend to the whole of India except Part B States”.

[Mines 41(7)50(II)]

P. N. SHARMA, Under Secy.